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## DEPARTMENT OF NATURAL RESOURCES

### Transfer of Silvicultural Assistance Program

- Transfers, effective January 1, 2016, the administration of the Silvicultural Assistance Program from the Division of Soil and Water Resources to the Division of Forestry, and retains all of the components of the Program.
- Authorizes a person that owns or operates a silvicultural operation to develop and operate under a timber harvest plan rather than an operation and management plan as in current law.

### Division of Water Resources

- Renames, effective January 1, 2016, the Division of Soil and Water Resources as the Division of Water Resources.
- Retains the administration by the renamed Division of all statutory programs and activities assigned to it, other than the Agricultural Soil and Water Conservation, Storm Water Management, and Silvicultural Assistance programs transferred by the bill.

### Sale, transfer, or use of Department property and water

- Requires the Director of Natural Resources to obtain the Governor's approval only for specified types of property transactions in an amount of \$50,000 or more rather than generally requiring both the Governor's and Attorney General's approval of any such transaction in any amount as in current law.
- Generally requires any such transaction, regardless of the amount, to be executed in accordance with a provision of the Conveyances and Encumbrances Law that requires specific actions to be taken regarding conveyances of state real estate, including drafting by the Auditor of State and signature by the Governor.

### Department notices

- Requires the Department to publish notices regarding certain activities, projects, or improvements as contemplated in the general newspaper publication statute.

### Mining operation annual reports

- Transfers the responsibility to prepare and publish certain mining operation reports from the Chief of the Division of Geological Survey or the Chief of the Division of Mineral Resources Management to the Director or the Director's designee.



- Authorizes the Director or the Director's designee to require the Division of Mineral Resources Management to perform the reporting duties currently performed by the Division of Geological Survey.

### **Industrial minerals mining**

- Generally precludes a mine foreperson's certificate issued under the Industrial Minerals Mining Law from expiring.
- Specifies that a certified mine foreperson may be employed for the purposes of being in charge of the conditions and practices at a mine in addition to conducting examinations of the surface mining operation as in current law.
- Allows a competent person identified by a certified mine foreperson to conduct examinations of the surface mining operation under federal law and specifies what constitutes a competent person for that purpose.
- Revises the statutory requirements governing safety audits at surface mining operations.
- Specifies that expenditures from the existing Surface Mining Fund made by the Chief of the Division of Mineral Resources Management for purposes other than certain authorized reclamation purposes are subject to the Chief's maintaining a balance in the Fund that is sufficient to achieve those reclamation purposes.

### **Streams and wetlands restoration by coal mining operators**

- Requires a permitted coal mining and reclamation operator to restore on the permit area streams and wetlands affected by mining operations unless the Chief of the Division of Mineral Resources Management approves mitigation activities off the permit area without a coal mining and reclamation permit, provided that the Chief first must make certain determinations.
- Requires the operator, if the Chief approves restoration off the permit area, to complete all mitigation construction or other activities required by the mitigation plan.
- Specifies that performance security for reclamation activities on the permit area must be released pursuant to current law, except that any release of the remaining portion of performance security must not be approved prior to the construction of required mitigation activities off the permit area.

## Coal mining permit applications

- Requires an applicant for a coal mining permit to submit with the application an accurate map or plan clearly showing the land for which the applicant will acquire the legal right to enter and commence coal mining operations during the term of the permit.
- Requires an applicant to submit with an application either a notarized statement describing the applicant's legal right to enter and commence coal mining operations or copies of the documents on which the applicant's legal right to enter and commence coal mining operations is based rather than only the latter.
- States that an application cannot be denied or considered incomplete by reason of right of entry documentation if the applicant documents the applicant's legal right to enter and mine at least 67% of the total area for which coal mining operations are proposed.
- Requires documents or a notarized statement forming the basis of an applicant's legal right to enter and commence coal mining operations on land located within an area covered by the permit and legally acquired subsequent to the permit's issuance to be submitted with an application for a permit revision.
- Stipulates that a permit must prohibit the commencement of coal mining operations on land located within an area covered by the permit if the permittee has not provided documents forming the basis of the permittee's legal right to enter and conduct coal mining operations on the land.

## Wildlife Boater Angler Fund

- Revises the uses of the Wildlife Boater Angler Fund by allowing its use for maintenance and repair of dams and impoundments, rather than unspecified maintenance, and acquisitions, including lands and facilities for boating access, in addition to its existing uses.
- Specifies that the activities for which the Fund may be used must occur on waters, rather than only on lakes, on which the operation of gasoline-powered watercraft is permissible.
- Increases from \$200,000 to \$500,000 the amount of annual expenditures from the Fund that may be used to pay for related equipment and personnel costs.



## **Oil and Gas Law**

### **Application of Law**

- Applies the Oil and Gas Law to a limited liability company, a joint venture, and any other form of business entity by including that description in the definition of "person" in that Law.
- Applies to public land provisions in the Law governing minimum distances of wells from boundaries of tracts, voluntary and mandatory pooling, special drilling units, establishment of exception tracts to which minimum acreage and distance requirements do not apply, unit operation of a pool, and revision of an existing tract by a person holding a permit under that Law.
- Accomplishes the change by revising the definition of "tract" in that Law by including land that is not taxed.

### **Definition of "condensate"**

- Revises the definition of "condensate" in the Law, and thus for purposes of the bill's severance tax provisions, to mean liquid hydrocarbons separated at or near the well pad or along the gas production or gathering system or by, rather than prior to, gas processing.

### **Application fee for permit to plug back existing well**

- Requires an application for a permit to plug back an existing oil or gas well to be accompanied by a nonrefundable fee by removing the exemption in current law under which such an application need not be accompanied by a fee.

### **Emergency planning reporting**

- Requires all persons that are regulated under the Law and rules adopted under it, rather than only owners or operators of facilities that are regulated under the Law, to submit specified information to the Chief of the Division of Oil and Gas Resources Management for inclusion in a database.
- Modifies provisions to be included in the rules governing the database by requiring the rules to ensure both of the following:

--That the Emergency Response Commission, the local emergency planning committee of the emergency planning district in which a facility is located, and the fire department that has jurisdiction over a facility, rather than the



Commission and every local emergency planning committee and fire department in Ohio as in current law, have access to the database; and

--That the information submitted for the database be made immediately available, rather than available via the Internet or a system of computer disks as in current law, to the above entities.

- Revises current law by stipulating that an owner or operator is deemed to have satisfied all of the inventory requirements established under the Emergency Planning Law by complying with the bill's submission requirements rather than by filing a log and production statement with the Chief as in current law.

### **Notification of emergencies**

- Requires an owner, a person issued an order under the Oil and Gas Law or rules, a registered brine transporter, or a surface applicator of brine to notify the Division of Oil and Gas Resources Management within 30 minutes after becoming aware of any of seven specified types of emergency occurrences unless notification within that time is impracticable under the circumstances.
- Requires a contractor performing services on behalf of a person who is required to provide such notice to notify that person within 30 minutes after the contractor becomes aware of any of the specified emergency occurrences unless notification within that time is impracticable under the circumstances.
- Prohibits a person from failing to comply with the above provisions, and states that a person violating the prohibition is subject to civil penalties, but not criminal penalties.

### **Mandatory pooling**

- Authorizes the owner who has the right to drill to request a mandatory pooling order under the Law rather than the owner of the tract of land who is also the owner of the mineral interest as in current law.
- Allows an application for a mandatory pooling order to be submitted if a tract or tracts, rather than a single tract of land, are of insufficient size or shape to meet the statutory minimum acreage requirements for drilling a proposed well rather than for drilling a well.
- Revises that Law regarding mandatory pooling to distinguish between mineral rights owners and surface rights owners, including by requiring the Chief to notify all mineral rights owners of tracts within the area proposed to be pooled and



included in the drilling unit of the filing of the application for a mandatory pooling order and their right to a hearing rather than all owners of land within that area.

### **Civil penalties for violations**

- Increases civil penalties for certain violations of the Law.

### **Response costs and liability**

- States that a person who violates the general permit requirements of the Law and provisions of that Law governing a permit for recovery operations, or any term or condition of a permit or order, is liable for damage or injury caused by the violation and for the actual cost of rectifying the violation and conditions caused by it.
- Establishes that a person may be subject to both a civil penalty and a term of imprisonment under the Law for the same offense.

## **Transfer of Silvicultural Assistance Program**

(R.C. 939.01, 939.02, 940.01, 1503.50, 1503.51, 1503.52, 1503.53, 1503.54, 1503.55, and 1503.99; Sections 715.30 and 715.40)

The bill transfers, effective January 1, 2016, the administration of the Silvicultural Assistance Program from the Division of Soil and Water Resources to the Division of Forestry and retains all of the components of the Program. It then makes the following changes in the Program:

(1) Authorizes a person that owns or operates a silvicultural operation to develop and operate under a timber harvest plan rather than an operation and management plan as in current law; and

(2) Allows the Chief of the Division of Forestry and the Chief's designee to administer and enforce the Program rather than solely the Chief of the Division of Soil and Water Resources as in current law.

The bill also generally prohibits specified state and local government officials, including the Chief of the Division of Forestry, from disclosing information used in the development or approval of or contained in a timber harvest plan.

## **Division of Water Resources**

(R.C. 1501.022, 1506.01, 1514.08, 1514.13, 1521.03, 1521.031, 1521.04, 1521.05, 1521.06, 1521.061, 1521.062, 1521.063, 1521.064, 1521.07, 1521.10, 1521.11, 1521.12, 1521.13, 1521.14, 1521.15, 1521.16, 1521.18, 1521.19, 1522.03, 1522.05, 1522.11, 1522.12, 1522.13, 1522.131, 1522.15, 1522.16, 1522.17, 1522.18, 1522.20, 1522.21, 1523.01, 1523.02, 1523.03, 1523.04, 1523.05, 1523.06, 1523.07, 1523.08, 1523.09, 1523.10, 1523.11, 1523.12, 1523.13, 1523.14, 1523.15, 1523.16, 1523.17, 1523.18, 1523.19, 1523.20, 3701.344, 6109.21, and 6111.044; Section 715.20)

Effective January 1, 2016, the bill renames, the Division of Soil and Water Resources as the Division of Water Resources, and retains the administration by the renamed Division of all statutory programs and activities assigned to it, other than the Agricultural Soil and Water Conservation, Storm Water Management, and Silvicultural Assistance programs transferred by the bill.

## **Sale, transfer, or use of Department property and water**

(R.C. 1501.01)

The bill requires the Director of Natural Resources to obtain the Governor's approval only for specified types of property transactions in an amount of \$50,000 or more. Those property transactions are the sale, lease, or exchange of portions of lands or real or personal property of the Department of Natural Resources; grants of easements or licenses for the use of the lands or property; and agreements for the sale of water from lands and waters under the Department's administration or care. Current law instead requires both the Governor's and Attorney General's approval of any such transaction in any amount unless that approval is not required for leases and contracts made under the Water Improvements Law and under the statutes governing public service facilities in state parks and the operation and maintenance of canals and canal reservoirs owned by the state.

The bill then requires any such transaction to be executed in accordance with a provision in the Conveyances and Encumbrances Law, if applicable, that generally requires all conveyances of real estate sold on behalf of the state to be drafted by the Auditor of State, executed in the name of the state, signed by the Governor, countersigned by the Secretary of State, sealed with the state seal, and entered by the Auditor of State in records kept by the Auditor for that purpose.



## Department notices

(R.C. 1501.011)

The bill requires the Department to publish notices regarding certain activities, projects, or improvements as contemplated in the general newspaper publication statute. Continuing law requires the Department to supervise the design and construction of, and to make contracts for the construction, reconstruction, improvement, enlargement, alteration, repair, or decoration of, certain projects such as dam repairs, waterway safety improvements, and Division of Wildlife improvements.

The general newspaper publication statute requires that the first publication of a notice be made in its entirety in a newspaper of general circulation, but the second publication may be made in abbreviated form in a newspaper of general circulation and on the newspaper's Internet website if the newspaper has one. That statute also authorizes a state agency or political subdivision to eliminate any further newspaper publications, provided that the second, abbreviated notice meets all of the following requirements:

(1) It is published in the newspaper of general circulation in which the first publication of the notice was made and is published on that newspaper's Internet website if the newspaper has one.

(2) It is published on the state public notice website.

(3) It includes a title, followed by a summary paragraph or statement that clearly describes the specific purpose of the notice, and includes a statement that the notice is posted in its entirety on the state public notice website. The notice also may be posted on the state agency's or political subdivision's Internet website.

(4) It includes the Internet addresses of the state public notice website and of the newspaper's and state agency's or political subdivision's Internet website if the notice or advertisement is posted on those websites and the name, address, telephone number, and electronic mail address of the state agency, political subdivision, or other party responsible for publication of the notice.

A notice published on an Internet website must be published in its entirety.

## Mining operation annual reports

(R.C. 1505.10 and 1561.04)

The bill transfers the responsibility to prepare and publish mining operation annual reports from the Chief of the Division of Geological Survey to the Director or the



Director's designee. The Director or the Director's designee may require the Division of Mineral Resources Management to perform the duties currently performed by the Division of Geological Survey regarding preparation and publishing of the reports. Continuing law requires the reports to include lists of operators and extraction operations in Ohio, information regarding commodities extracted, employment, and tonnage extracted at each location, and information regarding the production, use, distribution, and value of Ohio's mineral resources.

The bill also transfers the responsibility to submit an annual mining report to the Governor from the Chief of the Division of Mineral Resources Management to the Director or the Director's designee. Continuing law requires the report to include all of the following:

- (1) A summary of the activities and of the reports of deputy mine inspectors;
- (2) A statement of the condition and the operation of Ohio mines; and
- (3) A statement of the number of accidents in and about the mines, the manner in which they occurred, and any other data and facts bearing on the prevention of accidents and the preservation of life, health, and property and any suggestions relative to the better preservation of the life, health, and property of those engaged in the mining industry.

The bill also transfers to the Director or the Director's designee the requirement to mail a copy of the report to each coal operator in Ohio and a representative of the miners at each mine as well as other persons identified by the Director. Finally, under the bill, the Director or the Director's designee, rather than the Chief, must prepare and publish quarterly reports containing the above information.

### **Industrial minerals mining**

(R.C. 1514.06, 1514.40, 1514.42, and 1514.47)

The bill generally precludes a mine foreperson's certificate issued under the Industrial Minerals Mining Law from expiring. Under current law, a mine foreperson's certificate expires five years after the date of issuance and may be renewed if the applicant verifies that all required training pursuant to federal law has been completed and any other requirements for renewal have been satisfied. Generally, under the bill, the certificate does not expire unless the certificate holder has not been employed in a surface mining operation for five consecutive years. If the certificate holder has not been so employed, the certificate holder may retake the mine foreperson examination or may petition the Chief of the Division of Mineral Resources Management to accept past employment history in lieu of fulfilling the bill's employment requirement. The Chief



must grant or deny the petition by issuance of an order and must reissue the certificate if the Chief grants the petition. The bill provides for the issuance of unexpired certificates to individuals holding five-year certificates on the provision's effective date.

The bill also specifies that a certified mine foreperson may be employed for the purposes of being in charge of the conditions and practices at a mine in addition to conducting examinations of the surface mining operation as in current law. In addition, it allows a competent person identified by the certified mine foreperson to conduct examinations of the surface mining operation under federal law. Under the bill, a competent person is a person who has been trained in accordance with applicable federal law and been determined by a certified mine foreperson to have demonstrated the ability, training, knowledge, or experience necessary to perform the duty to which the person is assigned (hereafter, necessary qualifications). A person is not a competent person if the Chief demonstrates, with good cause, that the person does not have the necessary qualifications. A surface mining operator must maintain records demonstrating that a competent person has the necessary qualifications.

The bill authorizes, instead of requires as in current law, the Chief to conduct a safety audit at a surface mining operation if the operator has requested the Division to conduct mine safety training and specifies that such an audit can only be conducted once annually. It requires the safety audit to be scheduled at a time to which the Chief and the operator mutually agree and precludes it from continuing for more than one day.

Under the bill, expenditures from the existing Surface Mining Fund made by the Chief for purposes other than certain authorized reclamation purposes are subject to the Chief's maintaining a balance in the Fund that is sufficient to achieve those reclamation purposes. In doing so, the Chief must consider the timeliness of reclamation activity.

### **Streams and wetlands restoration by coal mining operators**

(R.C. 1513.16)

The bill requires a permitted coal mining and reclamation operator to restore on the permit area streams and wetlands affected by mining operations unless the Chief of the Division of Mineral Resources Management approves mitigation activities off the permit area without a coal mining and reclamation permit instead of restoration on the permit area, provided that the Chief first makes all of the following written determinations:

(1) A hydrologic and engineering assessment demonstrates that restoration on the permit area is not possible;



(2) The proposed mitigation plan under which mitigation activities described in item (3), below, will be conducted is limited to a stream or wetland, or a portion of a stream or wetland, for which restoration on the permit area is not possible;

(3) Mitigation activities off the permit area, including mitigation banking and payment of in-lieu mitigation fees, will be performed pursuant to a permit issued under the Federal Water Pollution Control Act or a state isolated wetland permit or pursuant to a no-cost reclamation contract for the restoration of water resources affected by past mining activities; and

(4) The proposed mitigation plan and mitigation activities comply with the performance standards that apply to operators.

The bill also requires the operator, if the Chief approves restoration off the permit area, to complete all mitigation construction or other activities required by the mitigation plan. In addition, the bill specifies that performance security for reclamation activities on the permit area must be released pursuant to current law, except that any release of the remaining portion of performance security must not be approved prior to the construction of required mitigation activities off the permit area.

## **Coal mining permit applications**

(R.C. 1513.07)

The bill requires an applicant for a coal mining permit to submit with the application an accurate map or plan, to an appropriate scale, clearly showing the land for which the applicant will acquire the legal right to enter and commence coal mining operations during the term of the permit. It then requires an applicant to submit with an application either a notarized statement describing the applicant's legal right to enter and commence coal mining operations or copies of the documents on which the applicant's legal right to enter and commence coal mining operations is based rather than only the latter as in current law. Under the bill, an application cannot be denied or considered incomplete by reason of right of entry documentation if the applicant documents the applicant's legal right to enter and mine at least 67% of the total area for which coal mining operations are proposed.

The bill also requires documents or a notarized statement forming the basis of an applicant's legal right to enter and commence coal mining operations on land located within an area covered by the permit and legally acquired subsequent to the issuance of the permit for the area to be submitted with an application for a permit revision. Finally, the bill stipulates that a permit must prohibit the commencement of coal mining operations on land located within an area covered by the permit if the permittee has not



provided documents forming the basis of the permittee's legal right to enter and conduct coal mining operations on the land.

## **Wildlife Boater Angler Fund**

(R.C. 1531.35)

The bill revises the uses of the Wildlife Boater Angler Fund by allowing its use for maintenance and repair of dams and impoundments, rather than unspecified maintenance as in current law, and acquisitions, including lands and facilities for boating access, in addition to its existing uses for boating access construction and improvements and to pay for equipment and personnel costs involved with those activities. The bill also specifies that the above activities must occur on waters, rather than only on lakes, on which the operation of gasoline-powered watercraft is permissible and increases from \$200,000 to \$500,000 the amount of annual expenditures from the Fund that may be used to pay for equipment and personnel costs.

## **Oil and Gas Law**

### **Application of Law**

(R.C. 1509.01)

The bill applies the Oil and Gas Law to a limited liability company, a joint venture, and any other form of business entity by including that description in the definition of "person" in that Law.

Additionally, the bill applies to public land provisions in the Law governing minimum distances of wells from the boundaries of tracts, voluntary and mandatory pooling, special drilling units, establishment of exception tracts to which minimum acreage and distance requirements do not apply, unit operation of a pool, and revision of an existing tract by a person holding a permit under that Law. The bill accomplishes the change by revising the definition of "tract" to mean a single, individual parcel of land or a portion of a single, individual parcel of land rather than a single, individually taxed parcel of land appearing on the tax list as in current law.

### **Definition of "condensate"**

(R.C. 1509.01(D))

The bill revises the definition of "condensate" in the Law to mean liquid hydrocarbons separated at or near the well pad or along the gas production or gathering system or by gas processing rather than prior to gas processing as in current law. The term is used in the statute governing unitization as revised by the bill and also



in continuing law authorizing the Chief of the Division of Oil and Gas Resources Management to adopt rules establishing requirements to prevent and contain surface and subsurface discharges of condensates. Additionally, "condensate" as defined in the Law is used in the bill's provisions revising the severance tax.

### **Application fee for permit to plug back existing well**

(R.C. 1509.06)

The bill requires an application for a permit to plug back an existing oil or gas well to be accompanied by a nonrefundable fee as follows:

(1) \$500 for a permit to conduct activities in a township with a population of fewer than 10,000;

(2) \$750 for a permit to conduct activities in a township with a population of 10,000 to 14,999; or

(3) \$1,000 for a permit to conduct activities in either a township with a population of 15,000 or more or a municipal corporation regardless of population.

The bill accomplishes the change by removing the exemption in current law under which such an application need not be accompanied by a fee.

### **Emergency planning reporting**

(R.C. 1509.11, 1509.23, 1509.231, 3750.081, and 3750.13)

The bill revises certain requirements governing the reporting of hazardous materials associated with oil and gas operations. Under current law, persons regulated under the Law must report to the Division of Oil and Gas Resources Management specified information regarding hazardous materials that is required to be reported by the federal Emergency Planning and Community Right-to-Know Act (EPCRA). The Chief of the Division, in consultation with the Emergency Response Commission, must adopt rules that specify the information that must be included in an electronic database that the Chief creates and hosts. The information must be information that the Chief considers to be appropriate for the purpose of responding to emergency situations that pose a threat to public health or safety or the environment.

The bill requires all persons that are regulated under the Law and rules adopted under it, rather than only owners or operators of facilities that are regulated under the Law, to submit the above information to the Chief. As a result, the bill requires the information to be filed with the Chief on or before March 1 of each year rather than as



part of an owner or operator's statement of production of oil, gas, and brine for a specified period of time as provided in current law.

The bill retains, with certain modifications, provisions to be included in the rules governing the database and the information submitted for it. Specifically, the bill's modifications require the Chief's rules to do all of the following:

(1) Require that the information be consistent with the information that a person regulated under the Law is required to submit under EPCRA;

(2) Ensure that the Emergency Response Commission, the local emergency planning committee of the emergency planning district in which a facility is located, and the fire department that has jurisdiction over a facility, rather than the Commission and every local emergency planning committee and fire department in Ohio as in current law, have access to the database;

(3) Ensure that the information submitted for the database be made immediately available, rather than available via the Internet or a system of computer disks as in current law, to the above entities; and

(4) Ensure that the information includes the information required to be reported under the Emergency Planning Law and rules adopted under it governing the submission of an emergency and hazardous chemical inventory form.

As a result of the modification discussed in item (1), above, the bill eliminates current law that requires, at a minimum, the information in the database to include the information that a person that is regulated under the Law is required to submit under EPCRA.

For purposes of the above provisions, the bill applies the definition of "facility" in the Emergency Planning Law. Under that Law, a facility is all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person or by any person who controls, is controlled by, or is under common control with that person.

The bill then revises a requirement governing the filing of information under the state Emergency Planning Law. Under the bill, an owner or operator of a facility that is regulated under the Oil and Gas Law generally is deemed to have satisfied all of the inventory requirements established under the Emergency Planning Law by complying with the requirements established by the bill. Current law instead specifies that any such owner or operator who has filed a log and production statement with the Chief in accordance with the Oil and Gas Law is generally deemed to have satisfied all of the submission and filing requirements established under the Emergency Planning Law.



Finally, the bill makes conforming changes.

### **Notification of emergencies**

(R.C. 1509.232)

The bill requires an owner, a person to whom an order is issued under the Oil and Gas Law or rules adopted under it, a person to whom a registration certificate to transport brine is issued, or a person engaged in the surface application of brine to notify the Division of Oil and Gas Resources Management by means of a toll free telephone number designated by the Chief of the Division or by electronic means designated by the Chief within 30 minutes after becoming aware of specified emergency occurrences unless notification within that time is impracticable under the circumstances. The specified emergency occurrences requiring such notification are the following:

(1) An uncontrolled or unplanned release of gas associated with a production operation or other activity regulated under that Law or rules adopted under it in an amount determined, in good faith, to equal or exceed 100 MCF;

(2) A release of oil outside a containment area associated with a production operation or other activity regulated under that Law or rules adopted under it if the release is in an amount determined, in good faith, to exceed 210 U.S. gallons or as specified by rule adopted by the Chief;

(3) A release of brine, drill cuttings, or other regulated drilling wastes outside the boundary of a site or facility regulated under that Law or rules adopted under it;

(4) A release of hydrogen sulfide associated with a production operation or other activity regulated under that Law or rules adopted under it in an amount determined, in good faith, to exceed 20 parts per million;

(5) A discharge or spill of a liquid, solid, or semisolid substance or material associated with a production operation or other activity regulated under that Law or rules adopted under it in an amount determined, in good faith, to exceed a reportable quantity as defined in rules adopted under the Emergency Planning Law, excluding a discharge or spill consisting solely of fresh water or storm water;

(6) A fire or explosion associated with a production operation or other activity regulated under that Law or rules adopted under it, excluding flaring or controlled burns authorized under the Oil and Gas Law or rules adopted under it or by the terms and conditions of a permit issued under the Law; or



(7) The response by a fire department or a person providing emergency medical services to the location of, and for the purpose of responding to, an occurrence specified above.

Under the bill, a contractor performing services on behalf of a person who is required to provide notice as discussed above must notify that person within 30 minutes after becoming aware of any of the above emergency occurrences unless notification within that time is impracticable under the circumstances.

The bill prohibits anyone from failing to comply with the notification requirements. A person that violates the prohibition is subject to civil penalties, but not criminal penalties. The bill authorizes the Chief to adopt rules that are necessary for the administration of the notification provisions.

### **Mandatory pooling**

(R.C. 1509.27)

The bill authorizes the owner who has the right to drill to request a mandatory pooling order under the Law rather than the owner of the tract of land who is also the owner of the mineral interest as in current law. In addition, the bill allows an application for a mandatory pooling order to be submitted if a tract or tracts, rather than a single tract of land as in existing law, are of insufficient size or shape to meet the statutory minimum acreage requirements for drilling units for drilling a proposed well rather than for drilling a well as in existing law.

The bill also revises that Law regarding mandatory pooling to distinguish between mineral rights owners and surface rights owners as follows:

(1) Requires the Chief to notify all mineral rights owners of tracts within the area proposed to be pooled by an order and included in the drilling unit of the filing of the application for a mandatory pooling order and of their right to a hearing rather than all owners of land within that area;

(2) Requires a mandatory pooling order to allocate on a surface acreage basis a pro rata portion of the production to each tract pooled by the order rather than to the owner of each such tract, and requires the pro rata portion to be in the same proportion that the percentage of the tract's acreage, rather than the owner's acreage, is to the state minimum acreage requirements;

(3) Requires a mandatory pooling order to specify the basis on which each mineral rights owner of a tract, rather than each owner of a tract, pooled by the order must share all reasonable costs and expenses of drilling and producing if the mineral



rights owner, rather than the owner of a tract, elects to participate in the drilling and operation of the well;

(4) Prohibits surface operations or disturbances to the surface of the land from occurring on a tract pooled by an order without the written consent of or a written agreement with the surface rights owner of the tract rather than the owner of the tract; and

(5) Provides that a mineral rights owner of a tract pooled by a mandatory pooling order who does not elect to participate in the risk and cost of the drilling and operation of a well must be designated as a nonparticipating owner in the drilling and operation and is not liable for actions or conditions associated with the drilling or operation rather than applying those provisions to the owner of a tract.

### **Civil penalties for violations**

(R.C. 1509.33)

The bill increases civil penalties for certain violations of the Law as follows:

<b>Type of violation</b>	<b>The bill</b>	<b>Current law</b>
Violations of provisions of the Oil and Gas Law, including violations of any rules or orders and terms or conditions of a permit or registration certificate, for which no specific penalty is provided.	A civil penalty of not more than \$10,000 for each offense.	A civil penalty of not more than \$4,000 for each offense.
Violations of permitting requirements for the exploration for or extraction of minerals or energy other than oil or natural gas.	A civil penalty of not more than \$10,000 for each violation.	A civil penalty of not more than \$2,500 for each violation.

### **Response costs and liability**

(R.C. 1509.33(G))

Under the bill, anyone who violates the general permit requirements of the Law or the provisions of that Law requiring a permit for additional and secondary recovery operations, or any term or condition of a permit or order issued by the Chief of the Division of Oil and Gas Resources Management, is liable for any damage or injury caused by the violation and for the actual cost of rectifying the violation and conditions



caused by it. The bill retains current law that imposes such liability on anyone who violates the provisions of that Law governing brine storage and brine transportation.

The bill also provides that a person may be subject to a civil penalty and a term of imprisonment for the same offense by revising current law to state that a person cannot be subject to both a civil penalty and a fine imposed as part of a criminal penalty under the Law for the same offense. Current law instead provides that a person cannot be subject to both a civil penalty and a criminal penalty, including both a fine and a term of imprisonment, under that Law for the same offense.

