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Bill Analysis

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Primary Sponsors: Sens. Hoagland and Rulli

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SUMMARY

- Establishes conditions and requirements, including compliance with certain chemical and radiological standards, for the sale of brine from certain oil or gas operations as a commodity for use in activities such as deicing, snow control, and dust control.
- Exempts these commodities from requirements otherwise applicable to brine.

DETAILED ANALYSIS

Introduction

The use of fluids to stimulate oil and gas well operations¹ produces a waste substance commonly known as brine. Brine is waste water with a high saline content that includes other substances.² Generally, under current law, a person is prohibited from processing or disposing of brine without a permit or order issued by the Chief of the Division of Oil and Gas Resources Management.³ The bill establishes a system by which a person may sell brine as a commodity if the brine does not come from a horizontal well and is processed or recycled to remove all of the following:

1. Free oil;
2. Dissolved volatile organic compounds; and
3. Other contaminants.

¹ Well stimulation helps increase production from an oil or gas well.

² See R.C. 1509.01(U), not in the bill.

³ R.C. 1509.22, not in the bill. The Division is under the authority of the Department of Natural Resources.

The processing or recycling of the brine must be conducted in accordance with a permit, order, or approval issued by the Chief of the Division.⁴

Requirements prior to the sale of brine

If a holder of a permit, order, or approval (“holder”)⁵ wants to sell a commodity processed as specified above,⁶ the holder must demonstrate to the Chief that the intended use of the commodity is not expected to result in damage or injury to public health, safety, or the environment. To make the demonstration, the holder must submit a copy of one of the following to the Chief:

1. Documentation that the Department of Transportation (ODOT) has approved the commodity for deicing or snow control;
2. Documentation that the commodity, with or without a corrosion inhibitor, is listed on the most recent Pacific Northwest Snowfighters qualified products list; or
3. Documentation from a private certification entity approved by ODOT.

The holder also must submit the results of a representative sample of the commodity, analyzed by a laboratory (certified by the Ohio Environmental Protection Agency) confirming that the commodity does not exceed certain chemical and radiological standards. The limits for these standards are as follows:

- Arsenic 5.0 mg/l;
- Cadmium 0.2 mg/l;
- Chromium 1.0 mg/l;
- Copper 1.0 mg/l;
- Lead 1.0 mg/l;
- Mercury 0.05 mg/l;
- Selenium 5.0 mg/l;
- Zinc 10 mg/l;
- Barium 50 mg/l;
- Benzene 0.31 mg/l;
- Toluene 17.5 mg/l;
- Ethylbenzene 29 mg/l;

⁴ R.C. 1509.228(A).

⁵ See R.C. 1509.22 and 1509.227, not in the bill.

⁶ R.C. 1509.228(A).

- Xylenes 10 mg/l;
- Radium-226 20,000 picocuries/l;
- Radium-228 2,500 picocuries/l.

If a holder submits one of the forms of documentation and the lab results to the Chief, that submission is sufficient to constitute the demonstration required under the bill.⁷

Commodity exemption

Once a holder submits one of the above forms of documentation and if the lab results are in compliance with the standards set forth above, the holder's commodity, for which the permit, order, or approval has been issued, is exempt from any provision of Ohio law applicable to brine. The holder may then sell the commodity for purposes of surface application in deicing, dust control, portable restrooms, or any other purpose approved by the Chief.⁸

Additional requirements

The Chief may establish reporting requirements as are reasonably necessary to confirm that the production of the commodity complies with the requirements of the Oil and Gas Law. The Chief must, at reasonable times, collect samples of the commodity. However, the Chief cannot collect more than four samples of a commodity annually. When the Chief conducts sampling, the Chief must provide the holder with a copy of the results and all supporting data associated with the results.

The bill authorizes the Chief to order the suspension of the sale of a commodity if sampling shows that the commodity exceeds any of the chemical or radiological standards. In order to resume sale of the commodity, a holder must provide the Chief with information acceptable to the Chief confirming that the commodity meets those standards.

Finally, the bill prohibits the Chief from adopting any rules, policies, or procedures establishing or imposing additional requirements applicable to commodities that have met the bill's demonstration requirements.⁹

⁷ R.C. 1509.228(B).

⁸ R.C. 1509.228(C).

⁹ R.C. 1509.228(D), (E), and (F).

HISTORY

Action	Date
Introduced	04-27-21
