1501:9-6-01 Definitions.

As used in Chapter 1501:9-6 of the Administrative Code:

(A) “Amendment” means after issuance of the letter of commencement for an oil and gas waste facility in accordance with section 1501:9-6-02 of the Administrative Code the occurrence of any of the following:

(1) Any substantial alteration in the operational processes at an oil and gas waste facility;  
(2) Any substantial alteration in the volume of brine or other waste substances that could be stored, treated, recycled, or processed at the oil and gas waste facility;  
(3) Any substantial alteration in the equipment or appurtenances used to perform the operations at the oil and gas waste facility;  
(4) Any substantial alteration to the design or construction of the oil and gas waste facility;  
(5) Any alteration to the design or construction of the oil and gas waste facility that reduces the ability of the oil and gas waste facility to safely operate; protect public health and safety, or minimize damage to natural resources; or  
(6) Any alteration that results in the revision of the oil and gas waste facility boundary.

(B) “Closure” means the ceasing of any storage, recycling, treatment, or processing of brine or other waste substances for the purpose of permanently terminating all or any portion of the operations at an oil and gas waste facility.

(C) "Construction" means any alteration of the earth, which includes soil, sediment, rock, sand, gravel, and organic material, the assemblage or initiation of assemblage of any infrastructure, building, structure, portions of a building or other fixtures for the purpose of creating an oil and gas waste facility. "Construction" does not include the temporary storage of equipment or materials; activities to protect sensitive areas or habitats; or seasonal tree and vegetative cutting.

(D) “Containment” means both primary containment and secondary containment.

(E) “Drill cuttings” means the soil, rock fragments, and pulverized material that are removed from a borehole and that may include a de minimus amount of fluid that results from a drilling process.

(F) “Environmental professional” has the same meaning as in paragraph 40 Code of Federal Regulations 312.10 (b).
(G) “Extremely hazardous substance” has the same meaning as in rule 3750-20-30 of the Administrative Code.

(H) “Fluid” means a waste substance that fails the United States Environmental Protection Agency standard SW-846 Test Method 9095B: Paint Filter Liquids Test and can be reused in a drilling operation or disposed of in an injection well.

(I) “Hazardous substance” has the same meaning as in rule 3750-20-50 of the Administrative Code.

(J) “Long-term oil and gas waste facility” means an oil and gas waste facility that stores, recycles, treats, and processes brine or other waste substances associated with the exploration, development, well stimulation, production operations, or plugging of oil and gas resources authorized under chapter 1509 of the Revised Code, chapter 1571 of the Revised Code, chapter 1501:9 of the Administrative Code, or conditions of a permit issued under those authorities.

(K) “Manifest” means a shipping document that details the contents and amounts of brine and other oil and gas waste substances and accompanies those substances when they are being transported from a production operation.

(L) "Material modification" means any of the following that occurs during construction, in accordance with section 1501:9-02 of the Administrative Code:

   (1) Any substantial alteration to the design or construction of an oil and gas waste facility;

   (2) Alteration to the design or construction of the oil and gas waste facility that reduces the ability of the oil and gas waste facility to safely operate, protect public health and safety, or minimize damage to natural resources; or

   (3) Any alteration that results in the revision of the oil and gas waste facility boundary.

(M) “Naturally occurring radioactive material or NORM” has the same meaning as in section 3748.01 (W) of the Revised Code.

(N) “Non-hazardous substance” means a substance is not a hazardous substance or an extremely hazardous substance.

(O) “Oil and gas waste facility” or “facility” means:

   (1) All buildings, structures, portions of a building or structure, equipment, pipelines, and other fixtures that are operated at a location for the purpose of storing, recycling, treating, or processing of brine or other waste substances associated with the exploration, development, well stimulation, production operations, or plugging of oil and gas resources.
“Oil and gas waste facility” does not include any of the following:

(a) Operations authorized by a permit issued under sections 1509.06 of the Revised Code, including associated exploration, development, well stimulation, production operations, or plugging of oil and gas resources, that take place at a well site and only serve operations at that well site;

(b) Operations authorized by a permit issued under sections 1509.21 of the Revised Code;

(c) Operations authorized by a permit issued under division (D) of 1509.22 of the Revised Code;

(d) Temporary storing of brine or other waste substances in a vehicle, vessel, or container at locations other than those listed in paragraph (O)(2) of this rule, for less than seventy-two hours, for which a manifest has been generated in accordance with paragraph 1501.9-6-03(B) of the Administrative Code; or

(e) A storage facility used by a local government authority to store brine used solely for ice and/or dust control in accordance with an approved brine spreading resolution subject to ORC 1509.226.

“Oil and gas waste facility boundary” means the boundary delineated for a temporary or long-term oil and gas facility under rule 1501.9-6-02 of the Administrative Code and includes all areas physically altered for construction, erosion and sediment controls, stormwater management, and all areas related to the operation of the constructed facility.

“Permittee” means the person who has been issued a permit.

“Pipeline” means a pipe that is installed or used for the transportation of brine or other waste liquids associated with the exploration, development, well stimulation, production operations, or plugging of oil and gas resources to or from an oil and gas waste facility to one or more production operations. “Pipeline” does not include process piping.

“Primary containment” means a structure, that is or will be in contact with brine or with other waste substances to prevent a release of brine or other waste substance, including but not limited to a tank, vessel, dike, pipe, liner, vault, or other equipment.

“Processing” or “process” means to alter the properties of brine or other wastes using mechanical or physical procedures.

“Production operation” has the same meaning as in section 1509.01(AA) of the Revised Code.
“Professional engineer” and “professional surveyor” have the same meanings as in section 4733.01 of the Revised Code.

“Reagent” means a product or chemical used in a process or treatment with the brine or other waste substance to alter its properties.

“Reclamation” means actions taken upon closure of an oil and gas waste facility to restore the oil and gas waste facility site to conditions that do not present a future threat to human health or safety or to the environment.

“Recycling” or “recycle” means to process or treat brine or other waste substances in order to use again.

“Secondary containment” means a structure, including but not limited to, a tank, vessel, berm, dike, pipe, liner, vault, curbing, drip pan, sump, or other equipment constructed or placed in a manner to temporarily contain an accidental or unauthorized release of brine or other waste substance from primary containment and to prevent brine or other waste substances from coming into contact with the ground water, the land, or discharge or likely to be discharged in surface water.

“Solid” means a waste substance that passes the United States Environmental Protection Agency standard SW-846 Test Method 9095B: Paint Filter Liquids Test.

“Stabilization” means treating a waste substance to permanently bind or eliminate the fluid content in the waste substance.

“Stabilizing agent” means Portland cement, quick lime (CaO), or other materials approved by the chief used for stabilization for the purposes of in-state disposal.

“Stockpile” means to store brine or other waste substances for more than six months at an oil and gas waste facility without removing that brine or other waste substances from the oil and gas waste facility.

“Storing” or “store” means to accumulate or collect.

“Suspension” means a waste substance that cannot be defined as a solid or a fluid as defined in this rule.

“Technologically enhanced naturally occurring radioactive material or TENORM” has the same meaning as in section 3748.01 (X) of the Revised Code. TENORM includes all of the following if the
radionuclide concentrations have been increased by or as a result of past or present human activities:

(1) Proppants previously used in a well;

(2) Oil-based drilling mud, water-based drilling mud, brine, and other fluids that have been recirculated in a well;

(3) Any solid accumulated in pipes, valves, or equipment that convey oil and gas waste substances;

(4) Solids that have settled to the bottom of containments that have been used to store, recycle, treat, or process oil and gas waste substances;

(5) Rinsate generated from the cleaning or washing of containments, pipes, or equipment associated with a production operation;

(6) Filter media used to remove particulates and solids in oil and gas fluids; and

(7) Any other material that is mixed with any substance identified in this paragraph.

(HH) “Temporary closure status” means a long-term oil and gas waste facility that has been authorized by the chief to temporarily halt operations in accordance with paragraph 1501:9-6-02(I) of the Administrative Code.

(II) “Temporary oil and gas waste facility” means an oil and gas waste facility that allows for temporary storing, recycling, treating, or processing of brine or other waste substances associated with the exploration, development, well stimulation, production operations, or plugging of oil and gas resources authorized under chapter 1509 of the Revised Code, chapter 1571 of the Revised Code, chapter 1501 of the Administrative Code, or conditions of a permit issued under those authorities.

(JJ) “Treating” or “treat” means to alter the properties of brine or other wastes by addition of a reagent.

(KK) “Waste substances” or “wastes” means substances that result from the exploration, development, well stimulation, production operations, or plugging of oil and gas resources authorized under Chapter 1509 of the Revised Code, Chapter 1571 of the Revised Code, Chapter 1501:9 of the Administrative Code, or conditions of a permit issued under those authorities, including drill cuttings, used proppants, used filter media, used drilling muds, solids generated from the storing, recycling, treating, or processing of these substances and substances that are stored, recycled, treated, or processed as ingredients to create a product. Earthen materials contaminated with any substances listed in this paragraph or oil, gas, or condensate that is not removed prior to
acceptance at a facility are a waste substance. A “waste substance” is a waste until such time that it leaves the oil and gas waste facility and is disposed or used for its intended lawful purpose.
1501:9-6-02 Oil and gas waste facility permit

Introduction

This rule applies to oil and gas waste facilities. An oil and gas waste facility shall be designed, constructed, and operated in a manner that safely supports the proposed operations occurring at the oil and gas waste facility and that protects public health and safety and minimizes damage to the environment by managing storm water, protecting surface and ground water, and minimizing soil erosion. Compliance with this rule does not eliminate the requirement that a person comply with any other applicable laws.

(A) Oil and gas waste facility compliance.

(1) Long-term oil and gas waste facility shall comply with all of the requirements in rules 1501:9-6-01 – 1501:9-6-03.

(2) Temporary oil and gas waste facility shall comply with all of the following:

(a) Aggregate volume of brine or other waste substances at the facility as defined in the approved application;

(b) Surface location of the facility shall be in accordance with paragraph 1501:9-6-02 (B); and

(c) Operations performed at the facility shall not exceed one year. The permit may be renewed once upon written request and approval of the chief.

(B) Surface location and siting criteria of an oil and gas waste facility. Unless the oil and gas waste facility operations are on a location authorized under section 1509.06, section 1509.21, or division 1509.22(D) of the Revised Code or the oil and gas waste facility is operating under an authorization by the chief prior to the effective date of this rule, the location and siting of an oil and gas waste facility shall comply with all of the following:

(1) No portion of an oil and gas waste facility shall be located within the boundary of a flood hazard area as delineated on the “National Flood Insurance Rate Map”;

(2) No portion of an oil and gas waste facility shall be located on a parcel that is zoned as residential, unless such use is otherwise expressly permitted in the applicable zoning code;

(3) An oil and gas waste facility boundary shall not be within one hundred feet of a wetland or any waters of the state as defined in paragraph 1509.01(V) of the Revised Code;

(4) An oil and gas waste facility boundary shall not be within one hundred feet of and within ponds, developed springs, and water wells unless those ponds, developed springs, and water wells are included as an integral part and support the production operations of the oil and gas waste facility or production operations associated with a horizontal well site;

(5) An oil and gas waste facility boundary shall not be located within one thousand feet of and within any of the following:
(a) The five-year time of travel associated with a public drinking water supply, as delineated or endorsed under the “Source Water Assessment and Protection Program”;

(b) The emergency management zone of a public water system intake; and

(c) An occupied private dwelling or a public building that may be used as a place of assembly, education, entertainment, lodging, or occupancy by the public unless the site is zoned industrial or the owner or legal agent of the identified properties consent in writing to the surface location of the oil and gas waste facility. Consent documentation shall be provided to the chief for approval with the application.

(6) Pipelines as defined in paragraph 1501:9-6-01(R) of the Administrative Code are exempt from items 2-5 in this paragraph.

(7) The chief may waive any of the items in this paragraph upon receipt of a written request by the applicant. The request shall describe the physical controls and written protocols proposed to mitigate damage or injury to public health or safety or the environment.

(C) Permit and document requirements. Requirements contained in this rule apply to both a long-term and temporary permit unless specifically excluded within this rule. A permit means both a long-term permit and temporary permit in this rule.

(1) A permit application is evaluated based on the submitted application and all accompanying documents to the application.

(2) A permit is not transferable to a different person.

(3) A permit is specific to the location at which an oil and gas waste facility is located.

(4) A permit cannot be amended to change the type of permit issued. A new application and authorization are required to change from a temporary oil and gas waste facility to a long-term oil and gas waste facility.

(5) All documents required to be submitted to the chief under this chapter shall be submitted in an electronic format using a form prescribed by the chief or in a format that is acceptable to the chief.

(6) Upon written request by an applicant, the chief may accept paper copies in lieu of the electronic submittal.

(7) A permittee shall comply with the permit, including terms and conditions of the permit, approved application documents and plans that are a part of the approved application, and approved amendments to the permit.

(D) Application documents.

(1) Application form. The application form, as prescribed by the chief, shall contain all of the following:

(a) The name, address, email address, and phone number of the applicant, and, if a business entity or association, the name and address of the statutory agent;
(b) The signature of the applicant. The signature may be electronic. When an authorized agent of the applicant signs an application, the application shall be accompanied by a certified copy of the appointment of such agent;

(c) The facility name, address, township, and county of the proposed oil and gas waste facility;

(d) Coordinates of the intersection of the centerline of the entrance apron for the oil and gas waste facility at the public right-of-way using latitude and longitude in a format of decimal degrees to a minimum of six significant figures;

(e) The name, title, twenty-four-hour phone number, mailing address, and email address of the applicant’s designated incident response coordinator for reporting and responding to reportable incidents as required by rule 1501:9-8-02 of the Administrative Code; and

(f) Any other information as required by the chief.

(2) Description. The applicant shall provide a description of all of the operations related to the storing, recycling, treating, or processing of brine or other waste substances that are proposed to occur at the facility, including but not be limited to all of the following:

(a) A description of the storage, recycling, treatment, and processing methods proposed;

(b) Detailed information for each system proposed to be used for storage, recycling, treatment, or processing that includes each of the following as applicable:

(i) Overall design flow;

(ii) Overall and individual primary containment capacity on a form prescribed by the chief, that includes, at a minimum, volume of containment, type of containment, contents in containment, location of containment, and chemical abstracts service number, when applicable;

(iii) Safety data sheets for all substances, when applicable;

(iv) Material specifications, that include, but are not limited to storage vessels, containment systems, piping, pipelines, and valves;

(v) Mechanical processes;

(vi) Chemical processes, including disclosure of each reagent and a general description of its function in the process;

(vii) Failsafe mechanisms, such as overfill protection, shut-off valves, leak detection systems, specifications and information;

(viii) Methods of metering and tracking the system throughput; and
(ix) Other relevant technical information required by the chief.

(c) Identification of the proposed final disposition of all brine or other waste substances handled or wastes generated by the oil and gas waste facility, including, but not limited to, disposition in an Ohio licensed landfill, at an out-of-state landfill, a class II injection well, and reuse in another production operation;

(d) Any other information relevant to the detailed description as required by the chief.

(3) Oil and gas waste facility plans.

The plans for a proposed oil and gas waste facility shall be developed, signed, and sealed by a professional engineer and shall document compliance with the Ohio Basic Building Code. The plans shall be prepared using commonly accepted drafting standards and shall be clear, legible, and drawn to a scale that sufficiently shows all required information. Each plan sheet shall be American National Standards Institute (ANSI) size D, twenty-two by thirty-four inches. All elements required to be contained in the plans under this paragraph shall be located horizontally in relation to the North American Datum of 1983 and shall be located vertically in relation to the North American Vertical Datum 1988. The plans shall include the detailed drawings, plans, and reports required under paragraphs (3)(a) to (3)(h) of this rule.

(a) Design and construction drawings. The design and construction drawings shall include all of the following:

(i) A title page that contains the name of the applicant; emergency contact information to be used during construction; the name of the proposed oil and gas waste facility; the county, township, and section or lot number where the proposed facility will be located; coordinates of the intersection of the centerline of the entrance apron at the public right-of-way using latitude and longitude and the center of the oil and gas waste facility infrastructure, in a format of decimal degrees, to a minimum of six significant figures; and a sheet index;

(ii) A plan sheet consisting of a color orthorectified aerial image with pixels no larger than one foot showing the location of the proposed oil and gas waste facility;

(iii) A plan sheet sealed by a professional surveyor showing the location of the proposed oil and gas waste facility boundary. The plan sheet shall include the control points used to generate the map;

(iv) The scale in feet, legend, graphical scale, and north arrow;

(v) A general layout, plan views, elevations, sections, and supplementary views that in conjunction with the specifications provide the working information related to all aspects of the proposed construction;

(vi) The proposed and existing contours with an intermediate contour interval not greater than two feet and an index not greater than ten feet;
(vii) Scaled detail drawings for major components of each system proposed that will be used for storage, recycling, treatment, or processing, to include primary containment;

(viii) Scaled detail drawings for all secondary containment systems proposed and their capacities;

(ix) Scaled detail drawings for any engineering controls and features proposed at the oil and gas waste facility in order to provide radiological protections;

(x) A plan sheet that identifies the traffic flow patterns of all transport vehicles within the oil and gas waste facility;

(xi) Unless already described in the reports and plans required in this rule, the applicant shall disclose the design considerations that were used to address paragraphs (3)(xi)(a) to (3)(xi)(m) of this rule. The detailed drawings shall identify and locate all of the following items:

a. The classified soil types within one hundred feet of and within the proposed oil and gas waste facility boundary. The classification shall be consistent with the United States Department of Agriculture soil series;

b. Plugged wells, producing wells, and idle and orphaned wells that are located within one hundred feet of and within the proposed oil and gas waste facility boundary. The information regarding the wells may be determined using information available from the Ohio Department of Natural Resources and other publicly available or readily accessible sources;

c. Structural and geotechnical components that are to be located within the proposed oil and gas waste facility boundary, including those identified in the geotechnical report;

d. Geotechnical borings and other geotechnical investigative means, which are located within the proposed oil and gas waste facility boundary, as identified in the geotechnical report;

e. Boundaries of parcels of land, existing occupied and unoccupied structures, and existing utilities known to the applicant at the time of the design process that are located within two hundred feet of and within the proposed oil and gas waste facility boundary;

f. All springs, wetlands, streams, lakes, rivers, ponds, and creeks which may be identified using reasonably available public resources and a field review, within two hundred feet of and within the proposed oil and gas waste facility boundary;

g. All developed springs and water wells, which may be identified using reasonably available public resources and a field review, within one thousand, five hundred feet of and within the proposed oil and gas waste facility boundary;
h. Surface and underground mines, which may be determined using information available from the Ohio Department of Natural Resources and other publicly available or readily accessible sources, that the professional engineer determines may affect design and performance of the oil and gas waste facility;

i. All risk zones and hazard areas delineated on the “National Flood Insurance Rate Map” within one hundred feet of the proposed oil and gas waste boundary;

j. Pipes, ditches, and other conveyances, and hydraulic control structures located within the oil and gas waste facility boundary, as identified in the stormwater hydraulic report and in the sediment and erosion control plan in accordance with this rule;

k. All areas within one thousand, five hundred feet of the proposed oil and gas waste facility boundary that are located within the five-year time of travel associated with a public drinking water supply, as delineated or endorsed under the “Wellhead Protection and Source Water Assessment and Protection Programs”;

l. All areas within one thousand, five hundred feet of the proposed oil and gas waste facility boundary that are located within the emergency management zone of a public water system intake; and

m. Any other factors that the professional engineer determines may affect design and performance of the oil and gas waste facility.

(b) Containment design. A proposed system for containment shall be designed by a qualified professional engineer in accordance with 1501:9-6-03 of the Administrative Code.

(c) Emergency release conveyance map. The emergency release conveyance map shall be included in the detail drawings. The emergency release conveyance map shall be on a separate sheet that identifies all of the following:

(i) Locations downslope of the proposed oil and gas waste facility where response resources may be deployed for the purposes of containment in the event of an emergency release using latitude and longitude, in a format of decimal degrees, to a minimum of six significant figures;

(ii) Flow path and identification of nearest receiving streams, rivers, watercourses, ponds, lakes, or other bodies of water where fluids may migrate from the proposed facility; and

(iii) Pipes, ditches, and other conveyances, and hydraulic control structures identified in the stormwater hydraulic report and in the sediment and erosion control plan.

(d) Storm water hydraulic report. The storm water hydraulic report shall include hydraulic design documentation for all pipes, ditches and other conveyances, and hydraulic control structures of surface water within or from the proposed oil and gas waste facility. All storm water and hydraulic control structures shall be designed to and be capable of managing a ten-year storm event.
system shall be designed to store the ten-year storm event on the oil and gas waste facility and to facilitate screening for potential contamination of the storm water prior to lawful discharge from the oil and gas waste facility. In addition, the report shall include all of the following:

(i) A delineation of contributing drainage area boundaries and their size measured in acres;

(ii) A detailed description or drawing that shows the installation requirements of all pipes, ditches, and other conveyances, and hydraulic control structures;

(iii) The materials and specifications for all proposed pipes, ditches, and other conveyances;

(iv) An analysis, performed by the professional engineer, of the integrity and capacity for all existing pipes, ditches, and conveyances; and

(v) The supporting calculations used to design the storm water conveyance system.

(e) Sediment and erosion control plan. The sediment and erosion control plan for the proposed oil and gas waste facility shall describe procedures to minimize the discharge of construction related sediment to any area outside of the proposed oil and gas waste facility boundary. In addition, the sediment and erosion control plan shall specifically comply with and include all of the following requirements:

(i) Sediment and erosion controls shall be suitable for the oil and gas waste facility conditions and shall be consistent with generally accepted engineering design criteria and the controls comply with the manufacturer’s specifications;

(ii) A sediment basin or sediment trap if the proposed oil and gas waste facility is within or includes a total contributing drainage area that is greater than five acres in size. The minimum capacity of the sediment basin or sediment trap shall be one hundred seventeen cubic yards and designed in accordance with the "Ohio Department of Natural Resources Rainwater and Land Development Manual." However, diversionary techniques to decrease drainage area size or sediment controls specifically designed for the equivalent capture efficiency may be used in lieu of the sediment basin or sediment trap;

(iii) An identification of each location of each outlet of all confined discrete conveyances that may leave the proposed oil and gas waste facility;

(iv) A delineation of contributing drainage area boundaries and size, measured in acres, that will be used to design the proposed sediment and erosion controls;

(v) A description of the soil stabilization measures, including vegetation, mulch, and other means of controlling erosion, that will be used at the proposed oil and gas waste facility. In addition, the description shall include a schedule of the implementation of the soil stabilization measures; and
(vi) The applicant may submit a schedule that identifies alternate options for implementation of the erosion and sediment controls and measures. The schedule shall identify when and under what criteria the alternate controls would be implemented.

(f) Geotechnical report. The geotechnical report shall be specific to the location of the proposed oil and gas waste facility and describe the proposed facility site conditions, design considerations, and construction requirements for the proposed facility. In addition, the geotechnical report shall disclose the results of a surface and subsurface investigation of the proposed facility site. The geotechnical report shall include all of the following:

(i) An analysis of slope stability, bearing capacity, and settlements that have the potential to negatively impact the performance of the proposed oil and gas waste facility;

(ii) Geotechnical borings or other geotechnical engineering standard investigative means, of sufficient depth and quantity to substantiate the design;

(iii) An evaluation of all existing infrastructure located within the proposed oil and gas waste facility boundary that will be used, affected or incorporated in the proposed oil and gas waste facility.

(iv) A summary of all subsurface exploration data specifically relevant to the geotechnical investigation and interpretation as it pertains to the design and construction of the proposed oil and gas waste facility, including subsurface soil profile, exploration logs, laboratory or in situ test results, and elevation of saturated soils at the time of exploration;

(v) An interpretation and analysis of the data required for the geotechnical report;

(vi) An explanation of the geotechnical design constraints;

(vii) Cross-sections through borings, critical slopes and impacted infrastructure used in geotechnical calculations;

(viii) The factor of safety for bearing capacity and slope stability. The factor of safety for slope stability shall not be less than 1.5 and the factor of safety for bearing capacity shall not be less than 3.0; and

(ix) Documents showing calculations used to determine the factor of safety. In addition, the documents shall include a detailed explanation of each assumption and reference used in the calculations.

(g) Dust control plan. The dust control plan shall be developed and include all of the following:

(i) An identification of the dust control measures that will be used during construction and throughout the life of the proposed oil and gas waste facility;

(ii) A description of the basis for when the dust control measures will be used;
The name and contact information of the person who is responsible for the implementation of the dust control plan and who also has the authority to stop work if dust generated at the oil and gas waste facility is not in accordance with the dust control plan; and

A description of the methods and procedures that will be used to evaluate and document all complaints related to dust generation.

Facility spill plan. A waste facility spill plan shall be developed to identify the countermeasures in the event of a release of brine or other waste substances associated with the exploration, development, well stimulation, production operations, or plugging of oil and gas resources, or any reagents used at the oil and gas waste facility. The waste facility spill plan shall contain all of the following:

A drawing that identifies the location of all storage containments for brine, other waste substances, or reagents, the capacity of all storage containers, and the proposed content of the storage containers. The drawing shall also identify the location for storage of all portable containers, transfer stations, connections, and pipes used for brine, other waste substances, or reagents;

A description of all discharge prevention measures, including but not limited to, procedures for loading, unloading, transfers, or other handling of brine, other waste substances, or reagents;

A description of all discharge and storm water drainage controls, to include but not be limited to, secondary containment around storage vessels, equipment, and other structures;

An emergency release conveyance map in accordance with paragraph (D)(3)(c) of this rule;

An identification and description of all methods for leak detection from storage vessels and secondary containment;

A description of all countermeasures for a discharge or spill; and

A contact list and phone numbers for notification purposes in the event of a release of brine, other waste substances, or reagents. The contact list shall contain at a minimum, the applicant’s designated incident response coordinator, applicable federal, state, and local authorities with responsibilities related to a release and contractors who could respond to the release.

The chief may waive any item required to be submitted under paragraphs (3)(a) to (3)(h) of this rule upon written request by the applicant. The request shall be signed by the applicant and the professional engineer who prepared the oil and gas waste facility plans and shall include a detailed explanation of the basis for the request and of the potential impacts to the proposed oil and gas waste facility and the surrounding area. The request for a waiver shall be submitted with the application.

Radiation protection plan (RPP). An oil and gas waste facility that receives, possesses, uses, processes, transfers, or disposes of technologically enhanced natural occurring radioactive material (TENORM) from oil and gas wells and production operations shall submit a radiation protection plan for approval by the chief. All operations at an oil and gas waste facility shall be performed in compliance with the approved radiation protection plan.

Environmental assessment. The applicant shall perform and submit a Phase I environmental assessment meeting the standards established in ASTM E1527-13, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.
Review Process.

(1) Completeness review. Not later than ten business days after receipt of an application for an oil and gas waste facility permit, the chief shall review the application to determine if the application is complete and notify the applicant in writing or by other means approved by the chief. If the chief determines that the application is not complete, the chief shall notify the applicant and identify the missing application components. The applicant may correct the application and submit the missing application components within ten business days of receipt of the notification or the application will be returned to the applicant. Not later than ten business days after receipt of all of the missing application components, the chief shall review the application for completeness and notify the applicant of the chief’s determination.

(2) Preliminary site review. The preliminary site review shall occur no later than fifteen business days after the applicant’s receipt of notification that the application is complete under paragraph 1501:9-6-02 (E) of this rule, unless otherwise mutually agreed to another date by the applicant and the chief. Prior to the preliminary site review the applicant shall install stakes at the proposed oil and gas waste facility in a quantity and in a manner that delineates the proposed oil and gas waste facility. The installation of the stakes shall show the proposed oil and gas waste facility boundary, the corners of all proposed structures, proposed roads, items and areas that are identified in the application that will remain undisturbed, and all other items that allow an understanding of the planned construction of the proposed oil and gas waste facility. The chief, the applicant’s designee, and the professional engineer who is responsible for the plans prepared under paragraph (D) of this rule or another person under the professional engineer’s direct supervisory control shall meet at the proposed oil and gas waste facility for a preliminary site review. At the preliminary site review, the chief may conduct a physical review of the location of the proposed oil and gas waste facility, discuss the application, identify items that are necessary to ensure compliance with the requirements of this rule, identify site-specific terms and conditions that may be attached to the permit for an oil and gas waste facility.

(3) Notice of application. An oil and gas waste facility operating under an authorization by the chief prior to the effective date of this rule is not required to comply with this paragraph.

(a) Within five business days after receipt of the chief’s determination that the application for a permit for a long-term oil and gas waste facility is complete, the division of oil and gas resources management shall provide public notice of the application by posting the application on the division’s website. In addition, within five business days after receipt of the chief’s determination, the applicant shall provide notice to the following parties:

(i) The owner of each parcel of real property that is located within fifteen hundred feet of the boundary of the proposed long-term oil and gas waste facility;

(ii) The executive authority of every municipal corporation or board of township trustees, as applicable, in which the proposed long-term oil and gas waste facility is to be located; and

(iii) The county engineer’s office in every county in which the proposed oil and gas waste facility is to be located.
The notice shall contain a statement that an application for a permit has been filed with the division of oil and gas resources management and shall contain at least the following information:

(i) The name and address of the applicant;

(ii) The location and address of the proposed oil and gas waste facility;

(iii) A description of each type of waste substance that will be stored, processed, treated, or recycled by the proposed oil and gas waste facility;

(iv) The proposed maximum volume of brine and each other waste substances that is proposed to be stored or used in any phase of processing, treatment, or recycling at the oil and gas waste facility;

(v) The division’s website address;

(vi) The name, title, and telephone number of the applicant’s contact;

(vii) A statement informing all parties notified in paragraph (E)(3)(a) of this rule that the division will consider all written comments or objections received by the division, within thirty calendar days of notification; and

(viii) A statement that informs an owner of real property who is required to receive the notice under paragraph (E)(3)(a) of this rule that within five business days of receipt of the notice, the owner is required to provide to each residence in an occupied dwelling that is located on the owner’s parcel of real property.

The notice may be provided by hand delivery or certified mail. The identity of the owners of parcels of real property shall be determined using the tax records of the municipal corporation or county in which a parcel of real property is located as of the date of the notice.

An affidavit as to the delivery to those entitled to personal notice shall be filed with the division within thirty calendar days from the date of the posting of the public notice and date-stamped by the division of oil and gas resources management. The affidavit shall include a list of all persons notified.

Comments and objections.

(i) Any person desiring to comment or to make an objection with reference to an application for a permit shall file such comments or objections, in writing, with the division of oil and gas resources management, 2045 Morse Road, Columbus, Ohio 43229 or electronically through the division of oil and gas resources management website on a form prescribed by the chief. Such comments or objections shall be filed with the division no later than thirty calendar days from the date of the posting of the public notice of the application for the permit.

(ii) If no objections are received within the thirty day period, the chief shall consider that no objection exists and upon approval of the application at the completion of the technical review procedures, the chief may issue a permit.
If an objection is received, the chief shall determine the validity of the objection within fifteen business days. If, in the opinion of the chief, such objection is not relevant to the issues of public health or safety, or to good conservation practices, or is without substance, and upon approval of the application at the completion of the technical review procedures, the chief shall issue a permit. If the chief considers any objection to be relevant to the issues of public health or safety, or to good conservation practices, or to have substance, a hearing shall be called within sixty calendar days of the end of the comment and objection period. Such hearing shall be held at the central office of the division of oil and gas resources management or another location designated by the chief. Notice of the hearing shall be sent by the chief to the applicant and to the person who has filed the relevant objection. Parties notified pursuant to paragraph (E)(3)(a) or paragraph (E)(3)(e)(iii) this rule may provide testimony at the hearing in support of their objections. Notified parties may bring an attorney and an expert to present evidence and testimony during the hearing. The division will assess the qualifications of experts based upon the work experience and educational credentials. Other interested parties may present comments or objections in writing or through the division’s website. The chief may, at the chief’s discretion, allow other interested parties that are not a notified party in paragraph (E)(3)(a) or paragraph (E)(3)(e)(iii) of this rule to provide testimony at the hearing.

The chief shall find within fifteen business days after the hearing, and upon consideration of the evidence and the application, that if the following conditions have been met, the application shall be approved upon completion of the technical review, and a permit shall be issued; otherwise, the chief shall deny the permit by order or allow that applicant to make revisions to the application.

a. The application complies with the requirements of Chapter 1501:9 of the Administrative Code;

b. The method of oil and gas waste management proposed in the application will not be in violation of law; and

c. The proposed oil and gas waste facility is protective of public health or safety and prevents substantial damage to the environment.

Upon completion of a hearing, the chief shall provide, in writing and on the division’s website, the final determination specific to the objections received.

Upon submittal of a revision to an application, or amendment to a permit, the chief shall determine if all or any portion of this paragraph shall be repeated by the applicant.

Technical Review.

For a permit for a long-term oil and gas waste facility. Not later than sixty calendar days after the completion of the oil and gas waste facility preliminary site review conducted under paragraph 1501:9-6-02(E)(2) of this rule, or not later than fifteen business days after the completion of a hearing and order conducted under paragraph (E)(3) of this rule, the chief shall review the application for a permit to determine if the application for the proposed oil and gas waste facility is in accordance with this rule.
(b) For a permit for a temporary oil and gas waste facility. Not later than fifteen business days after the completion of the oil and gas waste facility preliminary site review conducted under paragraph 1501:9-6-02(E)(2) of this rule, the chief shall review the application for a permit for a temporary oil and gas waste facility to determine if the application for the proposed oil and gas waste facility is in accordance with this rule.

(c) If the chief identifies items that are necessary to ensure the oil and gas waste facility complies with the requirements of the rule for which the application pertains, the chief shall notify the applicant of the items and the applicant may submit a revised application or portions of a revised application with an identification of all revisions. The chief may require the resubmission of the entire application. The chief shall review the revisions or resubmitted application within fifteen business days of receipt. If after thirty calendar days from the date the chief notified the applicant of the items and the applicant has not submitted the revised application or portions of the revised application, the chief shall return the application to the applicant. The chief may approve a longer period of time for submission of the revised application or portions of the revised application, upon written request by the applicant.

(d) In addition to the requirements established in the rule for which the application pertains, the chief may require the applicant or person to submit additional information pertaining to the design, construction, or operation of the proposed oil and gas waste facility that the chief determines is necessary for the protection of public health or safety or to prevent substantial damage to the environment or is necessary to ensure compliance with the requirements of this rule.

(e) After completing the review of the application, the chief shall either issue a permit for an oil and gas waste facility or issue an order denying the application. If the chief issues a permit for an oil and gas waste facility, the chief may include terms and conditions that the chief determines is necessary for the protection of public health or safety or to prevent substantial damage to the environment or is necessary to ensure compliance with the requirements of this rule.

(F) Construction.

(1) A person who has received a permit approving an application from the chief for an oil and gas waste facility may commence construction of the proposed oil and gas waste facility. The proposed oil and gas waste facility shall be constructed in conformance with the approved application, plans, and in accordance with Chapter 1509 of the Revised Code and rules adopted under it. The person shall notify the chief at least forty-eight hours prior to commencement of construction.

(2) During all phases of construction of the oil and gas waste facility, the permittee shall do all of the following;

(a) Ensure as-built construction drawings for the approved application for which a permit was issued by the chief are current and available at the oil and gas waste facility;

(b) Maintain a sign that is legible from the public right-of-way. The sign shall include all of the following: the county, township or municipal corporation, section or lot number, oil and gas waste facility name, twenty-four-hour emergency contact number, and the 911 address of the oil and gas waste facility;
(c) Maintain emergency response access;

(d) Maintain safe traffic flow near the entrance to the oil and gas waste facility;

(e) Maintain sediment and erosion controls and soil stabilization measures so that they perform as designed in the approved application;

(f) Ensure that the pipes, ditches, and other conveyances of surface water and hydraulic control structures perform as designed in the approved application;

(g) Ensure that the dust controls perform as designed in the approved application; and

(h) Maintain all oil and gas waste facility infrastructure, including but not limited to, structural and site stability as designed in the approved application.

(3) Modification during construction.

(a) All modifications to the approved application, including material modifications, are required to be documented within one working day of modification on a modification summary form prescribed by the chief. The form shall be submitted electronically and shall be updated daily if a modification is performed. In addition, the form shall be made available for review at the oil and gas waste facility site during construction.

(b) All material modifications to the oil and gas waste facility or to an approved application must be approved by the chief prior to implementation. All proposed material modifications shall be submitted to the chief in writing, or other means approved by the chief, and shall include all of the following:

(i) A detailed description of the proposed material modification and the potential impact to the performance of the oil and gas waste facility;

(ii) A specific identification of every portion of the application, as applicable, that is proposed to be modified; and

(iii) Revised application documents, as applicable, pertaining to the material modification.

(c) Within five business days of receipt of the material modification submittal, the chief shall review, and either approve the proposed material modification, identify any items that are necessary to ensure compliance with the requirements of this rule, or issue an order denying the material modification. If the chief identifies items that are necessary to ensure compliance with the requirements of this rule, the person shall submit a revised material modification that includes the identified items for approval. The chief may require a site review prior to determining whether to approve the proposed material modification or identifying items necessary to ensure compliance with the requirements of this rule. If the chief requires a site review, the five business days period established under this paragraph shall be suspended until completion of the site review.

(d) Nothing in paragraph (F)(3) of this rule prohibits a person from taking actions necessary to prevent harm to human health or safety or to prevent harm to the environment. If the actions will result in a material
modification, the person shall submit a summary of the activities within twenty-four hours of the actions. In addition, the person shall submit the material modification documents in accordance with this paragraph within three business days of the event that posed a threat to human health or safety or to the environment, or within another time frame as agreed to by the chief.

(e) Alternate options contained in the approved application that are implemented shall not be considered material modifications, but shall be documented in the same manner as a modification in paragraph (F)(3) of this rule.

(f) The chief may waive all or part of the submission required under this paragraph.

(G) Approval to commence operations. No permittee shall store, recycle, treat, process, or dispose of brine or other waste substances associated with the exploration, development, well stimulation, production operations, or plugging of oil and gas resources at the oil and gas waste facility that has received a permit under this chapter without a letter of commencement signed by the chief. The letter of commencement shall be issued upon approval of the certification, approval of the verification of integrity, and performance of a preoperational site review.

(1) Certification. Upon completion of construction, the permittee shall submit a certification to the chief. Not later than two years after the effective date of the permit, the permittee shall submit to the chief a signed and sealed certification from the professional engineer who has personal professional knowledge of the construction of the oil and gas waste facility. The chief may approve an extended time period for receipt of the certification upon written request by the permittee showing good cause. The certification shall be on a form prescribed by the chief and shall specifically state: “The application documents were designed in accordance with all applicable statutes and rules adopted under them and the oil and gas waste facility was constructed in reasonably close conformity with the approved application, including all approved material modifications.” In addition, the certification shall include the record drawings, modification summary form described in paragraph (F)(3) of this rule, all testing results performed on containment systems or other equipment as required by the professional engineer and the manufacturer of the containment system or other equipment, and recommendation of occupancy from the Ohio Department of Commerce. A certification shall remain valid for two years.

(2) Verification of integrity. A verification of integrity shall be performed in accordance with paragraph (J) of this rule.

(3) Preoperational site review. A preoperational site review for the proposed oil and gas waste facility site shall be performed within ten business days of receipt of a complete certification.

(a) The chief, the permittee’s designee, and the professional engineer who is responsible for the preparing the record drawings or another person under the professional engineer’s direct supervisory control shall meet at the oil and gas waste facility site for a preoperational site review. At the oil and gas waste facility preoperational site review, the chief shall conduct a visual review of the oil and gas waste facility to ensure that record drawings submitted with the certification accurately document the constructed oil and gas waste facility. A preoperational site review may be waived if the chief determines the preoperational site review is not necessary.
(4) Letter of commencement. Within five business days of the preoperational site review, the chief shall do one of the following:

(a) The chief shall issue a letter of commencement upon approval of the certification and the verification of integrity;

(b) The chief shall notify the permittee of items deficient in the certification and verification of integrity and provide the permittee an opportunity to resubmit the portion of the certification and verification of integrity that was deficient; or

(c) The chief shall terminate the permit if the permittee does not receive a letter of commencement in accordance with this paragraph.

(H) Amendment to the permit.

(1) An amendment to a permit must be approved by the chief prior to implementation of the amendment. A permittee shall submit an amendment for approval on a form prescribed by the chief and shall include all of the following:

(a) A detailed description of the proposed amendment and the impact that the amendment will have to the operations of the oil and gas waste facility;

(b) A specific identification of every portion of the approved application that is proposed to be altered;

(c) Revised application documents pertaining to the proposed amendment; and

(d) Other items as required by the chief.

(2) Within fifteen business days of receipt of an amendment, the chief shall review the amendment, and either approve the amendment to the permit in writing, identify any items that are necessary to ensure compliance with the requirements of this rule, or issue an order denying the amendment. If the chief identifies items that are necessary to ensure compliance with this rule, the permittee shall submit a revised amendment to the permit that includes the identified items for approval. The chief may require a site review prior to approval of the proposed amendment. If the chief requires a site review, the fifteen business day period established under this paragraph shall be suspended until completion of the site review.

(3) If the approved amendment results in an expansion of the facility’s storage or operations, the permittee may be required to perform a verification of integrity for the approved amendment in accordance with the requirements established in this paragraph.

(4) Within five business days after the chief approves the amendment, all portions of the certification submittal that are no longer valid, shall be revised and submitted in accordance with paragraph 1501:9-6-03(G) of this rule. Upon completion of the amendment, a professional engineer shall certify the amendment was implemented in accordance with the submittal.

(5) The chief may waive all or any part of the requirements established under paragraph (H) of this rule.
(6) The chief may require a revision to the financial assurance evaluation in accordance with the requirements established in this rule.

(7) The chief may require the permittee to obtain a new permit if the implementation of the amendment will result in a substantial deviation from the originally approved application for a permit.

(i) Temporary closure status for a long-term oil and gas waste facility.

(1) A permittee may obtain approval for temporary closure status of a long-term oil and gas waste facility upon written request and approval by the chief. The written request shall contain all of the following:

(a) The permittee’s name and address;

(b) The permit number and the address of the location of the oil and gas waste facility;

(c) Requested time limit for the temporary closure status. The requested time limit shall not exceed six months;

(d) A plan for removal of all brine and other waste substances from the oil and gas waste facility and securing the oil and gas waste facility that shall include all of the following:

(i) A schedule of tasks to be performed to temporarily close the oil and gas waste facility;

(ii) The volume and final disposition of the brine and other waste substances to be removed from the site;

(iii) An identification and description of the security measures to be implemented during the temporary closure;

(iv) A schedule for inspection of the temporarily closed oil and gas waste facility to ensure measures taken in accordance with this paragraph remain protective of public health, safety and the environment; and

(v) The contact information for the responsible party in the event of an emergency during the temporary closure.

(e) Verification of notice to the bonding agent for the oil and gas waste facility;

(f) A bond value modification for the period of time that the oil and gas waste facility is temporarily closed if desired by permittee; and

(g) Any other relevant information required by the chief.

(2) Within ten business days of receipt of a request for temporary closure status, the chief shall review the request and shall either request additional information, deny the request by order, or approve the request. The chief shall approve the request if the chief determines that the oil and gas waste facility that is the subject of the request poses no threat to the health or safety of persons, property, or the environment. If the chief approve
the request, the permittee shall immediately implement the approved plan submitted as part of the request. If the chief denies the request, the permittee shall move to closure in accordance with this rule or continue to operate in accordance with the permit.

(3) Not later than thirty days prior to expiration of the approved time limit for temporary closure status, the permittee may request renewal of the temporary closure. The renewal request shall be submitted to the chief, in writing, and state the reason for the renewal. The chief may request additional information from the permittee, deny the request by order, or approve the request. Renewal of temporary closure status shall be approved once.

(4) Prior to resuming permitted operations at the oil and gas waste facility, the oil and gas waste facility shall be in compliance with this rule, any terms and conditions of the permit for the oil and gas waste facility, and any applicable orders issued by the chief.

(J) Verification of integrity for the oil and gas waste facility. A verification of integrity shall be performed prior to the issuance of the letter of commencement. A verification of integrity may also be required after any amendment to the permit, prior to resumption of operations after termination of an order authorizing temporary closure status, after all significant repairs to any containment, or based on the findings of any inspections performed by the chief. A verification of integrity may be performed on all or portions of the oil and gas waste facility. The chief may approve limited operation of the oil and gas waste facility in order to perform all or part of the verification of integrity, upon written request of the applicant or permittee. A verification of integrity may include all or any of the following items:

(1) Test or inspect all primary containment, secondary containment, equipment, piping systems, and other appurtenances at the oil and gas waste facility, excepting those appurtenances tested as part of the construction. Determine, in accordance with industry standards, the appropriate qualifications for personnel performing the tests and inspections, and the type of testing and inspections to be performed. Examples of integrity tests include, but are not limited to visual inspection, electrical leak detection, hydrostatic testing, radiographic testing, ultrasonic testing, acoustic testing, emissions testing, or other means of testing in accordance with industry standards.

(2) The applicant or permittee shall provide documentation, for review and approval by the chief, that includes a listing of the items being tested or inspected, the type of test or inspection being performed, the person or persons performing the test or inspection and their qualifications, and schedule of the tests or inspections proposed for the verification of integrity.

(3) The chief may require additional testing if conditions indicate additional testing or may waive any portion of the verification of integrity upon written request and justification.

(4) The results of all tests and inspections performed for a verification of integrity shall be documented and provided to the chief for review and approval. In addition, the verification of integrity documentation shall be maintained at the oil and gas waste facility for a period of three years. The verification shall include an affidavit that specifically reads, “I, as permittee of this oil and gas waste facility, do hereby certify that to the best of my knowledge and as of this date, the primary containment, secondary containment, equipment, piping systems,
and other appurtenances at the oil and gas waste facility function in a manner that will not result in a release of brine or other waste substances in or on the land, in the ground water, or in the surface water.”

(K) Permanent closure. Not later than ten business days prior to closure of an oil and gas waste facility, the permittee shall notify the chief in writing of pending closure of the oil and gas waste facility and the date for closure of the oil and gas waste facility. Notwithstanding the provisions of a permit, the permittee shall suspend all operations on the date specified in the notice of closure and proceed to reclamation as per section (L) of this rule.

(L) Reclamation.

(1) Decommissioning phase.

(a) No later than ten business days after receipt of the notice of closure, the permittee shall submit a decommissioning plan. The decommissioning plan shall address all of the following:

(i) Schedule for implementation of the plan;

(ii) Removal of all brine and other waste substances from all storage and operational vessels that remain at the oil and gas waste facility after closure; and

(iii) Cleaning of all vessels that contained brine and other waste substances for unrestricted use or conditional release.

(b) No later than ten business days after receipt of the decommissioning plan, the chief shall review the plan to determine if the plan is in accordance with this paragraph. If the chief approves the plan, the chief shall notify the permittee in writing of the approval.

(c) If the chief identifies items that are necessary to ensure compliance with this paragraph, the chief shall notify the permittee in writing of the items deficient in the decommissioning plan and the permittee shall resubmit a revised plan or portions of a revised plan with an identification of all revisions within fifteen business days.

(d) No later than ten business days after receipt of the revised decommissioning plan, the chief shall review the plan to determine if the plan is in accordance with the requirements established in this paragraph.

(e) The permittee shall notify the chief twenty-four hours prior to the commencement of the decommissioning phase.

(2) Site assessment phase. The site assessment shall determine if the oil and gas waste facility’s operations impacted the soil, surface water, and groundwater conditions and shall be performed by an environmental professional.

(a) No later than ten business days after completion of the decommissioning phase, the permittee shall submit a site assessment plan for review by the chief.

(b) No later than fifteen business days after receipt of the site assessment plan, the chief shall review the plan. If the chief approves the plan, the chief shall notify the permittee in writing of the approval.
(c) If the chief identifies deficiencies in the plan, the chief shall notify the permittee in writing of the deficiencies. The permittee shall resubmit a revised plan or portions of a revised plan with an identification of all revisions within fifteen business days.

(d) No later than fifteen business days after receipt of the revised site assessment plan, the chief shall review the plan and either approve or deny the plan.

(e) The permittee shall notify the chief twenty-four hours prior to the commencement of the site assessment.

(f) No later than fifteen business days after completion of the site assessment, the permittee shall compile a site assessment report and submit it to the chief for review.

(g) No later than fifteen business days after receipt of the site assessment report, the chief shall review the report.

(h) If the chief identifies deficiencies in the report, the chief shall notify the permittee in writing of the deficiencies in the site assessment report and the permittee shall resubmit a revised report or portions of a revised report with an identification of all revisions within fifteen business days.

(3) Remedial action phase. The remedial action phase shall mitigate any negative impacts of the oil and gas waste facility operations and the potential to cause harm to human health, safety, or the environment and shall be performed by an environmental professional.

(a) No later than fifteen business days after completion of the site assessment phase, the permittee shall submit a remedial action plan for review by the chief.

(b) No later than fifteen business days after receipt of the remedial action plan, the chief shall review the plan. If the chief approves the plan, the chief shall notify the permittee in writing of the approval.

(c) If the chief identifies deficiencies in the plan, the chief shall notify the permittee in writing of the deficiencies. The permittee shall resubmit a revised plan or portions of a revised plan with an identification of all revisions within fifteen business days.

(d) No later than fifteen business days after receipt of the revised remedial action plan, the chief shall review the plan and either approve or deny the plan.

(e) The permittee shall notify the chief twenty-four hours prior to the commencement of the remedial action phase.

(f) No later than forty five days after completion of the remedial action, the permittee shall compile a remedial action report and submit it to the chief for review.

(g) No later than fifteen business days after receipt of the remedial action report, the chief shall review the report.
(h) If the chief identifies deficiencies in the report, the chief shall notify the permittee in writing of the deficiencies in the remedial action report and the permittee shall resubmit a revised report or portions of a revised report with an identification of all revisions within fifteen business days.

(4) Site restoration phase. The site restoration phase shall restore the site to the original condition as is practical. Original condition means the site conditions existing prior to the construction and operation of the oil and gas waste facility. The surface owner of the oil and gas waste facility site may agree, in writing, to site restoration conditions different from the original conditions, if the modified site restoration conditions are determined by the chief to minimize damage or injury to public health or safety or the environment.

(a) No later than fifteen business days after receipt of the approved remedial action report, the permittee shall develop and submit a site restoration plan that includes construction documents prepared by professional engineer showing the proposed site restoration and an implementation schedule.

(b) No later than fifteen business days after receipt of the site restoration plan, the chief shall review the plan. If the chief approves the plan, the chief shall notify the permittee in writing of the approval.

(c) If the chief identifies deficiencies, the chief shall notify the permittee in writing of the deficiencies in the site restoration plan. The permittee shall resubmit a revised plan or portions of a revised plan with an identification of all revisions within fifteen business days.

(d) No later than fifteen business days after receipt of the revised site restoration plan, the chief shall review the plan and approve or deny the plan.

(e) No later than ten business days from the completion of the site restoration, a final site inspection shall be performed to determine if the permittee has completed the restoration in accordance with the approved plans. The chief and the permittee or the permittee’s representative shall attend the site inspection. The surface owner or surface owner’s representative may attend the site inspection.

(f) Upon completion of the site inspection, the chief shall identify any items remaining to be completed and shall notify the permittee of the items identified in writing. The permittee shall correct the items identified prior to the release of the financial assurance. If the permittee does not correct the items identified to the chief’s satisfaction, the chief may commence the forfeiture process.

(g) If the chief determines that the permittee has completed the site restoration in accordance with the approved plans, the chief shall declare in writing, no further action and commence financial assurance release in accordance with 1501:9-6 of the Administrative Code.

(5) The chief may approve an amendment for any reclamation phase or portion of reclamation phase, upon written request of the permittee.

(M) Enforcement. The chief may issue an order ceasing operations at a permitted oil and gas waste facility if any of the following apply:
(1) The oil and gas waste facility is being operated in a manner significantly different than the approved permit and any approved modifications or amendments;

(2) The oil and gas waste facility does not perform or is likely not to perform as designed;

(3) The oil and gas waste facility does not or is likely not to perform in a manner that supports safe production operations;

(4) The oil and gas waste facility fails or is likely to fail to protect public health and safety; or

(5) The oil and gas waste facility fails or is likely to fail to prevent substantial damage to natural resources.
1501:9-6-03 Oil and gas waste facility operational requirements.

(A) On and after the effective date of this rule, any person who stores, recycles, treats, or processes brine or other waste substances at an oil and gas waste facility shall comply with all of the operational requirements in this rule, unless specifically exempted in this rule or waived by the chief. A request for a waiver shall be submitted to the chief in writing. The chief may require documentation to be submitted detailing compliance with this rule. Compliance with this rule does not eliminate the requirement that a person comply with any applicable local, state or federal law.

(B) Oil and gas waste classification.

(1) No brine or other oil and gas waste substances resulting from the construction, operation, or plugging of a well, as defined in section 1509.01 of the Revised Code, shall be accepted or removed from an oil and gas waste facility unless the brine or other oil and gas waste substance is accompanied by a manifest as described in this rule.

(a) The manifest shall contain, at a minimum, the waste substance description, generator, volume of brine or other waste substance, and the destination of the brine or other waste substance.

(b) The brine or other waste substance shall be described on the manifest using the following terms:

(i) Solid, fluid, or suspension, as defined in this rule, shall be used to describe the consistency of the brine or other waste substance.

(ii) TENORM or NORM as defined in this rule. If the material is identified as TENORM, analytical testing results by a laboratory approved to test TENORM by the Ohio Department of Health shall be attached to the manifest. The TENORM shall be further described using one of the following terms:

a. “Minus” is a classification term that identifies the TENORM concentration as less than seven pCi/g combined radium 226 and radium 228.

b. “Plus” is a classification term that identifies the TENORM concentration as equal to or greater than seven pCi/g combined radium 226 and radium 228.

c. “Undetermined” is a classification term that indicates one of the following:

i. The TENORM concentration has not been determined in accordance with paragraph 1509.074(A) of the Revised Code; or

ii. The TENORM is being transported out of state for lawful disposal.

(2) The oil and gas waste facility shall maintain records of the manifests of all brine and other oil and gas waste substances, including all analytical data performed in accordance with this rule for a minimum of three years. The records shall be made available to the Chief upon request.
(C) Brine and waste substance storage. Brine and other waste substance storage systems shall be designed, constructed, and operated in a manner to prevent discharge of brine, used products, or waste substances in the groundwater, in or on the land, or in surface waters that could reasonably be anticipated to cause harm or damage or injury to public health or safety or the environment. Basins, catchments, sumps or other impoundments constructed solely to store stormwater for sediment control are exempt from the requirements outlined in this rule. Brine and other waste substances shall not be stockpiled.

(1) Containment Integrity.

(a) Containment systems shall be designed by a qualified professional engineer.

(b) Containment shall be designed, installed, operated, and maintained to prevent a release of brine or other waste substances from the containment.

(c) Containment shall be installed, tested, operated, and maintained in accordance with manufacturer’s recommendations and specifications.

(d) Containment shall be capable of storing brine or other waste substances without collapse, rupture, or failure.

(e) Containment shall be compatible with the substance that it contains and the physical and climatic conditions to which the containment will be exposed.

(f) Metallic storage containment that comes in contact with the ground, shall be protected from corrosion by cathodic protection or other means approved by the chief.

(g) Metallic storage containment shall be protected from lightning.

(h) Geomembrane liner systems used as containment shall be tested upon completion of installation and on a frequency recommended by the manufacturer, professional engineer, or as otherwise approved by the chief. Testing shall be performed using electronic leak detection methods and laboratory tests as recommended by the manufacturer. All testing methods shall be in accordance with ASTM standards or other standards as approved by the chief.

(i) The foundation or base for the containment shall provide support for the containment that is resistant to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift.

(j) Containment shall be designed, installed, and maintained to prevent physical damage from equipment due to excessive stress, settlement, vibration, expansion, or contraction.

(k) Any containment or containment component that results in or is likely to result in a discharge of brine or other waste substances, including but not limited to, liners, gaskets, piping, pumps, valves, rivets, and bolts shall be repaired or replaced immediately upon detection of the failure or imminent failure in the containment.
Written statements testifying to the integrity of the containment by those persons that designed, installed, and inspected the containment systems shall be maintained at the oil and gas waste facility for review upon request by the chief.

Containments or containment system components previously in service shall be inspected and certified by a professional engineer attesting that the containment is structurally capable of containing the proposed substance. At a minimum, this assessment must consider and disclose the following:

(i) Design standard(s), if available, to which the containment or containment components was constructed;

(ii) Substances that were previously stored in the containment or containment components;

(iii) Existing condition of the containment or containment components; and

(iv) Age of the containment or containment components, if available.

Primary Containment.

(a) All primary containment shall have a method of leak detection that detects a failure to contain the stored substance in the containment.

(b) Allowable leak rates shall be disclosed for geomembrane systems.

(c) All primary containment shall have a label affixed to the containment identifying the contents and the maximum volume of the primary containment.

(d) A minimum of twelve inches of freeboard shall be maintained within all primary containment. A larger freeboard may be required by the chief.

(e) All primary containment shall be vented. Filters shall be installed on the vent stacks to control odors when necessary.

Secondary Containment.

(a) Capacity of the secondary containment shall be one hundred and ten percent of the capacity of the largest single primary containment or the total capacity of multiple primary containments that are manifolded together to function as a single containment, whichever is greater. An additional six-inch freeboard shall be maintained if the secondary containment is exposed to rainfall. If the manifolded containment is designed and operated with an isolation system to prevent release of the total volume of the manifolded system during a primary containment failure, then it would not be considered as one containment volume.

(b) Secondary containment shall not be used as primary containment.

(c) Secondary containment shall function as a means to capture an incidental spill or release from a primary containment and a catastrophic failure of a primary containment.
(d) Any accumulations of brine or other waste substances in the secondary containment shall be removed as soon as possible after detection.

(e) Any accumulation of stormwater in the secondary containment shall be removed within seventy-two hours after the accumulation.

(f) All pumps and other appurtenances at an oil and gas waste facility that are associated with the storage, processing, or conveyance of brine or other waste substances shall have secondary containment.

(4) Conveyance systems.

(a) All flow of brine and other waste substances shall be through dedicated, controlled conveyance systems.

(b) Conveyance systems shall be designed and constructed in a manner that minimizes abrasion and corrosion in the conveyance system and allows for expansion and contraction of the conveyance system.

(c) Conveyance systems shall be compatible with the substance that they carry and the physical and climatic conditions to which the conveyance system will be exposed.

(d) Conveyance systems shall have a containment system that prevents a release from the conveyance from escaping the containment before the release can be cleaned up.

(e) On-site stormwater management.

(i) Any valves, pipe, or other equipment designed to discharge stormwater outside of the secondary containment shall be maintained closed and affixed with a tamper-proof seal or locked.

(ii) All stormwater discharged from secondary containment shall be through controlled conveyance systems.

(iii) All stormwater discharged from secondary containment shall be screened or tested prior to discharge to ensure that the stormwater has not been contaminated with brine or other waste substances.

(iv) All stormwater discharged from secondary containment shall be documented. Records shall be maintained for a period of three years and shall include estimated volume, screening and testing results, date of discharge, and the person responsible for authorizing the discharge. The records shall be made available for review upon request of the chief.

(D) Solids and stabilization requirements.

(1) A stabilization agent shall bind the liquid component of the waste substance to the stabilization agent resulting in a solid that when compressed does not release brine or other liquids.

(2) All storage of solids shall be within primary and secondary containment.
All stabilization operations shall be performed within primary and secondary containment.

Solids shall be stored in a manner that prevents contact with stormwater. Solid storage areas shall be clearly marked and identified with signage.

Any liquid that comes in contact with solids or stabilization agents shall be properly captured and disposed of in a lawful manner.

Site security controls. An oil and gas waste facility shall provide controls at the site to minimize accidental or unauthorized entry into the oil and gas waste facility or areas of the facility not intended for access by the public, wildlife, domestic animals, and migratory birds. A fence or barrier that completely surrounds the portions of the oil and gas waste facility may be required as deemed necessary by the chief. The site security controls may include the following:

1. Signs that clearly identify portions of the oil and gas waste facility that are intended to be accessible only to authorized personnel;
2. Lighting that illuminates the oil and gas waste facility sufficiently to discourage acts of vandalism;
3. Valves for discharge of brine or other waste substances from the containment are affixed with a tamper-proof seal or locks;
4. Signs that clearly identify ingress, egress, and traffic flow patterns; and
5. Mesh, screening or other controls are provided for open top containments to prevent access by migratory birds, as necessary.

Schedule of inspection. A permittee of an oil and gas waste facility shall develop and implement a schedule of inspection for all equipment, containment systems, and other applicable appurtenances at the facility. The chief may require a permittee to conduct such inspections on a schedule that is different than a permittee’s schedule of inspections, if there is just cause. The permittee shall ensure all of the following:

1. Equipment and other appurtenances associated with the oil and gas waste facility are maintained in a safe and functional manner;
2. Standard operating procedures are developed and implemented for inspection, maintenance, and operation of equipment and other appurtenances associated with the oil and gas waste facility;
3. A log of scheduled inspections for containment systems, equipment, and other appurtenances at the oil and gas waste facility shall include, but not be limited to, containment tanks, liner systems, pumps, piping systems, monitoring equipment, monitoring wells, and other inspections recommended by equipment manufacturers or others experienced with the operation and maintenance of the equipment and other appurtenances. Inspections shall include, but not be limited to, structural integrity, corrosion, and containment integrity. A record shall be maintained of all completed inspections, findings of those inspections, and actions taken as a result of the inspections.
(4) Records shall be maintained for a minimum of three years and available for review upon request of the chief.

(G) Reporting. By the first day of March of each calendar year, the permittee shall submit a report summarizing activities during the previous calendar year. The report shall be certified as accurate by the permittee and shall contain the following:

(1) Identification of any minor amendments to the approved application for the permit, and include changes in record drawings, operations, and storage capacities;

(2) Total amount of brine and other waste substances accepted for storage, treatment, processing, or recycling at the facility;

(3) Total amount and disposal location of brine taken for disposal;

(4) Total amount and disposal location of brine taken for reuse or recycling;

(5) Total amount and disposal location of other waste substances taken for in state disposal or reuse; and

(6) Total amount and disposal location of other waste substances taken for out of state disposal.

(7) For a temporary oil and gas waste facility, a summary of items (G)2 through (G)6 of this paragraph shall be submitted within thirty days of termination of the permit.
(A) No person shall store, recycle, treat, process, or dispose of brine or other waste substances pursuant to an order or permit issued under division (B)(2)(a) of section 1509.22 of the Revised Code, or under rule 1501:9-6-02 of the Administrative Code if the person has not satisfied the financial assurance and insurance requirements established in this rule.

(B)

(1) A person who submits an application for a permit for an oil and gas waste facility to store, recycle, treat, or process brine or other waste substances pursuant to division (B)(2)(a) of section 1509.22 of the Revised Code and rules adopted under it also shall file with the chief of the Division of Oil and Gas Resources Management, on a form prescribed and furnished by the chief, a surety bond or other form of financial assurance that is authorized under this rule. The surety bond shall be in accordance with paragraph (B)(2) or (B)(3), as applicable and be payable to the state as obligee and conditioned on the performance of all the requirements of Chapter 1509 of the Revised Code and rules adopted under it.

(2) The surety bond or other financial assurance for a temporary oil and gas waste facility shall be one million dollars unless the person submits an actuarial study that demonstrates the cost to restore and reclaim the location is less than one million dollars. The chief will review a submitted study and may establish lower surety bond in a written approval.

(3) The surety bond or other financial assurance for a long-term oil and gas waste facility shall be in an amount that covers the full estimated cost of facility closure and reclamation as described in the closure schedule and reclamation plan submitted under paragraph (L) of rule 1501:9-6-02. As part of the permit, a person shall submit an itemized written estimate, in current dollars, on a form approved by the chief that provides a calculated estimate for the proposed surety bond or other financial assurance. The factors used to calculate the surety bond or other financial assurance shall include the following:

(a) Maximum volume of brine and other waste substances that the facility can store;
(b) Unit cost to lawfully dispose of each waste off-site;
(c) Volume of pipes, lines, and equipment of the total processing system to be decontaminated;
(d) Unit cost to decontaminate equipment;
(e) Area of exposed surfaces to be decontaminated;
(f) Unit cost to decontaminate surfaces;
(g) Volume of waste generated during decontamination;
(h) Unit cost to dispose of decontamination waste;
(i) Number of verification samples needed to verify decontamination;

(j) Unit cost to sample, analyze and report results;

(k) Estimate volume of process residuals (waste water, etc.);

(l) Cost for facility maintenance;

(m) Post closure soil sampling and laboratory analysis;

(n) Post closure ground water sampling and analysis;

(o) Decommissioning funding plan for technologically enhanced naturally occurring radioactive materials (TENORM) wastes and storage vessels; and

(p) Engineering and quality assurance and quality control costs.

The closure cost estimate shall be based on closure costs at the point in the operating life of the facility when the extent and manner of its operation will maximize closure costs. The estimate shall be based on a third party conducting the closure activities. The chief may identify additional factors that must be considered in the surety bond or other financial assurance calculation based upon site-specific aspects of the proposed oil and gas waste facility and proposed operations.

(4) Evaluation and approval process of surety bond and financial assurance. The chief shall review an itemized written estimate of closure costs submitted under paragraph (B)(3) of this rules. Within 30 days of receipt of the estimate, the chief shall approve the cost estimate in writing or deny the cost estimate by order.

(5) Instead of a surety bond, a person may deposit with the chief, cash in an amount equal to the surety bond as prescribed in paragraph (B)(2) and (B)(3) of this rule, as applicable, or negotiable certificates of deposit or irrevocable letters of credit, issued by any bank organized or transacting business in this state having a cash value equal to or greater than the amount of the surety bond required under paragraph (B)(2) and (B)(3) of this rule. Cash or certificates of deposit shall be deposited upon the same terms as those upon which surety bonds shall be deposited. If certificates of deposit are deposited with the chief instead of a surety bond, the chief shall require the bank or savings and loan association that issued any such certificate to pledge securities of a cash value equal to the amount of the certificate that is in excess of the amount insured by any of the agencies and instrumentalities created under the "Federal Deposit Insurance Act," 64 Stat. 873 (1950), 12 U.S.C. 1811, as amended, and regulations adopted under it, including at least the federal deposit insurance corporation, bank insurance fund, and savings association insurance fund. Immediately upon a deposit of cash, certificates
of deposit, or letters of credit with the chief, the chief shall deliver them to the treasurer of state who shall hold them in trust for the purposes for which they have been deposited.

(6) The surety bond provided for in this section shall be executed by a surety company authorized to do business in this state.

(7) The chief shall not accept any bond until the bond is personally signed and acknowledged by both principal and surety, or as to either by the principal’s or surety’s attorney in fact, with a certified copy of the power of attorney attached thereto. The chief shall not accept a bond unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact a fidelity and surety business in this state.

(C) Financial Assurance Modification and Updating. Any person authorized to operate an oil and gas waste facility with a closure cost estimate greater than one million dollars shall do all of the following:

(1) Annually review and analyze the closure cost estimate and make any appropriate revisions to the estimates and to the surety bond or other financial assurance whenever a change in the closure activities revises the cost of closure. Any revised closure cost estimate must be adjusted for inflation as specified in paragraph (C)(2) of this rule.

(2) Annually adjust the closure cost estimate for inflation. The adjustment shall be made as specified in this paragraph, using the preceding February inflation factor derived from the annual implicitly price deflator for gross domestic product as published by the United States Department of Commerce. The first initial adjustment for inflation is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate. All subsequent adjustments are made by multiplying the most recently adjusted closure cost estimate by the most recent inflation factor.

(D) The surety bond or other financial assurance required under this rule shall be maintained until the person complies with rules for the closure reclamation, and post-closure monitoring if required by permit, of a location for which a permit or order was issued under division (B)(2)(a) of section 1509.22 of the Revised Code to store, recycle, treat, or process brine or other waste substances under rule 1501:9-6-02. If rules are not adopted under section 1509.22 of the Revised Code for the closure of a location for which a permit or order was issued to store, recycle, treat, or process brine or other waste substances, the person shall maintain the surety bond or other financial assurance until the chief inspects the location for which a permit or order was issued to store, recycle, treat, or process brine or other waste substances and issues a written approval of closure for the location.

(E)
All moneys collected from the forfeiture of bonds or other financial assurance as provided in this section shall be deposited in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code and shall be used to restore the location for which the bond or other financial assurance was. The chief is not obligated to spend more than the value of the forfeited bond or other financial assurance insurance to restore an abandoned site.

Liability Insurance. A person who submits an application for a permit or order to store, recycle, treat, or process brine or other waste substances under division (B)(2)(a) of section 1509.22 of the Revised Code or rules adopted under it shall obtain liability insurance coverage from a company authorized to do business in this state in a combined total of not less than four million dollars bodily injury and property damage per occurrence coverage and eight million dollars bodily injury and property damage annual aggregate coverage for injury to persons or damage to property caused by the a location for which a permit or order was issued to store, recycle, treat, or process brine or other waste substances under that division. The person shall maintain the liability insurance until the person complies with rules for the closure and reclamation of an oil and gas waste facility or if the rules are not adopted for closure or reclamation of an oil and gas waste facility, the chief issues a written approval of closure for the location for which a permit or order was issued to store, treat or process brine or other waste substances.