John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

Tuesday, April 8, 2014

House Agriculture & Natural Resources
Proponent Testimony on HB 490
Director Craig W. Butler

Good morning Chairman Hall, Vice Chair Thompson, Ranking Minority Member Cera and Members of the House Agriculture and Natural Resources Committee. My name is Craig Butler, Director of the Ohio Environmental Protection Agency and I am pleased to provide proponent testimony for HB 490, specific to the provisions related to the agency.

One change is simply a technical correction to a reference in Ohio EPA's Air Pollution code, ORC 3704.05.

Also included in the bill is a revision to the definition of "Lead Free". This change is needed to be consistent with the federal "Reduction of Lead in Drinking Water Act of 2011" which amended a portion of the Safe Drinking Water Act. It reduces the allowable lead content of plumbing and fixtures from 8% to 0.25%. The new federal standard became effective in January 2014.

HB 490 also contains changes to the Water Pollution Control Law. It creates a knowing and reckless standard for violations of ORC 6111.99. Currently, all criminal violations of Ohio's Water Pollution Laws are misdemeanors, regardless of their severity or the intent of the violator. With the suggested changes, the Attorney General Prosecutors will have the flexibility to more appropriately charge violators as misdemeanors, but up to and including criminal charges. It would also allow Ohio EPA or political subdivisions to be reimbursed for response costs incurred by responding to an incident.

These changes were included in SB 46 of the 130th General Assembly in response to the egregious illegal dumping of brine material in Youngstown that occurred throughout 2012. With the assistance of the U.S. Department of Justice, the individuals responsible for this crime have been criminally charged and sentencing has begun.

It is important this law be updated to ensure Ohio does not have to rely on the federal government's more stringent standards to respond to violations that occur within our borders. These changes will also make the sanctions more consistent with other programs we administer.

This bill also removes a section of the revised code regarding oil and gas producers' chemical emergency response reporting.

Ohio EPA, ODNR and interested parties are working together on this provision. Since 2001 oil and gas producers have used ODNR's production reports to meet the federal Right-to-Know provisions. Recently, that practice was challenged by citizen groups through the use of a petition process to the US EPA. The US EPA determined that the reports were not compliant because they did not capture all of the federal regulatory reporting changes that had occurred over the past fourteen years. The chemical inventory information in those reports is widely used by emergency responders.

The industry, ODNR and OEPA are working with Congressman Johnson and US EPA to determine what modifications to the ODNR Production Report would be needed to implement these changes quickly so Ohio is compliant with federal law.

We are expecting positive results and this is why we ask the language to require oil and gas companies to report through the State Emergency Response Commission be removed.

Thank you for your time and I'd be happy to respond to any questions you may have.