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Senate Agriculture Committee
Interested Party Testimony on HB 490

Good morning Chairman Hite, Vice Chair Balderson, Ranking Minority Member Gentile, and Members of the Senate Agriculture Committee. My name is Craig Butler, Director of the Ohio Environmental Protection Agency and I am pleased to provide interested party testimony for HB 490, specific to the provisions related to the agency. We appreciate the hard work of the Chairman Hall and the House Agriculture and Natural Resources committee on this bill and we are pleased that many of the provisions vital to Ohio EPA remain in the bill. I would like to take a few minutes to go over those items:

- Technical Reference - One change is simply a technical correction to a reference in Ohio EPA's Air Pollution code, ORC 3704.05.
- Lead Content in Piping - 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%. OEPA needs to adopt this language to address construction of drinking water treatment plants and piping systems. The new federal standard became effective in January 2014 and is already being implemented through the Department of Commerce and building codes statewide.
- Emergency Response Right-to-Know Information - The bill also contains language to streamline the State Emergency Response Right-to-Know reporting requirements for oil and gas producers already reporting needed information to ODNR via the Production Reports. Since 2001 oil and gas producers have used these 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 production reports were not compliant because they did not capture all of the federal regulatory reporting changes that had occurred over the past fourteen years. ODNR is planning to update the database to reflect federal requirements and all emergency responders will receive all required information in compliance with federal and state laws. This change will go into effect for the 2016 reporting period to give ODNR time to complete the necessary technical upgrades. We support this change and believe it will provide greater access to data and industry transparency.
- Felony Provisions for Clean Water Act Violations - HB 490 also contains changes to the Water Pollution Control Law. It creates a "knowingly" and "purposely" 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. The new language would also allow Ohio EPA or political subdivisions to be reimbursed for response costs incurred by responding to an incident.

These changes are needed in response to the various incidents, but specifically 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. However, 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 our authority under the Air, Drinking Water, Solid and Hazardous waste programs.

New Additions to Address Water Quality

This bill also contains two additional provisions to address water quality issues vital to our state. As you all know Lake Erie and some inland lakes have clearly been negatively impacted by nutrients and other threats. Ohio EPA and other state agency partners are working on the water quality issue on multiple fronts based on our authorities and capabilities. Ohio EPA's focus has been primarily with point-source dischargers, i.e., wastewater treatment plants and other direct dischargers and also water quality monitoring.

We worked with Chairman Hall and the House Agriculture committee on appropriate language to help address these issues. They are briefly outlined below:

- **Phosphorus Monitoring** - Publically Owned Wastewater Treatment Works (POTWs) currently monitor for total phosphorus. The proposed language would require certain large POTW's (with a design flow of 1.0 million gallons per day) to monitor their discharge for both total and dissolved phosphorus. POTW's that do not have a phosphorus limit of 1.0 milligram per liter currently in their permits will be required to complete a study to evaluate their ability to reduce phosphorus to that level as a thirty-day average. Given the issues with nutrient and phosphorus loading in Ohio's waters, including inland lakes, streams and Lake Erie it is important to have accurate data on the amount of phosphorus discharged into our waters from point sources. It is important to note our POTW's have been very effective in decreasing the amounts of all nutrients, including phosphorus, being discharged into Ohio's waters. This information will help provide accurate data on sources of phosphorus entering our waterways and will be very valuable when determining the appropriate tools needed to address this problem.
- **Open Lake Disposal** - This summer while in Toledo along the Maumee River, the Governor made it clear that Ohio is committed to keeping our shipping channels and harbors open for commerce, but that we need to find a solution to address the continued open lake disposal of dredge material. Other Great Lakes states have enacted legislation which conditions or restricts open lake disposal and these laws have served as a driver to develop successful beneficial use programs while keeping their harbors open. Our proposal provides a five year window in which we will work with local partners, federal agencies, shipping-dependent businesses and the legislature to accomplish the same. There are ways to reuse dredge material so that it can be a beneficial and marketable commodity, not an environmental liability. We've talked about this issue for too long, it is time to put a structure in place that will drive this conversation forward as well as protect our lake.

Thank you Chairman Hite and members of the committee. I will be glad to answer any of your questions at this time.