

Testimony before the Ohio Senate Finance Corrections Subcommittee
May 21, 2015

By Andrew Williams, Senior State Regulatory and Legislative Affairs Manager

Chairman Uecker, members of the Senate Finance Corrections Subcommittee, my name is Andrew Williams, and I am the senior state regulatory and legislative affairs manager for the Environmental Defense Fund, a national environmental advocacy group with 10,000 members in Ohio.

EDF again applauds Ohio's efforts to improve its oil and gas emergency response program and other features of its regulatory efforts. While we are neutral on HB 64 as a whole, the language in the bill on emergency reporting and on providing chemical information to emergency responders will help protect both the health and safety of Ohioans and the environment. So too would language in the As Introduced bill providing bonding and insurance requirements for oil and gas wastewater treatment facilities, which would work to ensure that Ohio citizens are not left with major cleanup bills on these industrial locations.

In March of this year, we testified favorably about the emergency response and notification provisions before the House Finance Subcommittee on Agriculture, Development, and Natural Resources. With respect to the chemical disclosure aspect of emergency response, we noted that "the provisions do a good job balancing the immediate needs of emergency responders while still protecting the intellectual property of the chemical providers. Should an emergency arise in Ohio that requires access to trade secret information, we believe that the language here will provide an unimpeded flow of information to the people who need it to mitigate harm to people and natural resources." Revised language we reviewed that was apparently developed on May 15th still accomplishes this goal, though we note that the definition of "emergency responder" has been narrowed. While we do not anticipate that this narrowing will lead, in practice, to undue difficulties for emergency responders on the scene to get information they need, we urge the legislature and ODNR to monitor outcomes in real-world emergency situations and adjust these rules accordingly if responders are not getting necessary information in a timely fashion.

On notification of incidents, spills and releases to the environment from production sites generally within thirty minutes of awareness of the occurrence, we noted in our prior testimony that "this is critical information for the agency to know about, both in terms of an immediate response, and for assessment of operations in the state." Compared to the bill As Introduced, the current language has improved specificity on circumstances and thresholds for reporting for various substances. We look forward to working with ODNR on implementing rules related to this language.

Finally, we call attention to bonding and insurance requirements in the As Introduced bill for operators of facilities that store, recycle, treat, or process brine or other waste substances pursuant to Ohio Revised Code 1509.22(B)(2)(a). This language, which called for these facilities to acquire bonding and insurance in case of accident and to ensure funding for clean-up and remediation, was stripped out of the bill passed by the House. The provisions should be restored – many of these facilities process toxic wastes that could cause serious damage to human health and the environment, and in the absence of insurance and bonding requirement, Ohio taxpayers would be on the hook to deal with the consequences. There are currently no bonding or insurance requirements on the books in Ohio at all for these facilities, one of which has already gone bankrupt. The As Introduced bill language is reasonable, and consistent with requirements in Pennsylvania (one similar facility in Pennsylvania was required to provide a bond of approximately \$2.5 million). We urge the restoration of the bonding and insurance language, and look forward to working with ODNR during rulemaking to refine the details of assessments.

On behalf of the Environmental Defense Fund, thank you for your attention today.