

Ohio Coal Association Testimony on HB 175
Ohio House Agriculture and Conservation Committee
May 4, 2021

Chairman Koehler, Vice Chairman Creech, and Ranking Member Brent, thank you for allowing me to provide written testimony on HB 175, which would align Ohio's law with federal standards by removing ephemeral streams from the definition of "Waters of the State." The Ohio Coal Association (OCA) is a trade association collectively representing every aspect of the regional coal industry, including coal production, equipment manufacturing and supply, electric power generation, engineering, coal transportation, blasting and other similar enterprises.

In 2020, the U.S. Environmental Protection Agency (U.S. EPA) developed the Navigable Waters Protection Rule, which replaced the 2015 Clean Water Rule and provided a consistent definition of "Waters of the United States" (WOTUS). The new federal rule expressly excludes "ephemeral features" from the definition of WOTUS and thus, they will no longer be regulated under the Clean Water Act. This new federal rule took effect in June 2020. In response, the Ohio Environmental Protection Agency (Ohio EPA) developed a new "General Permit for Isolated Wetlands and Ephemeral Streams" (General Permit). This General Permit became effective on June 22nd, 2020.

As you heard in sponsor testimony, ephemeral streams consist mostly of erosional features (erosion gullies) that are dry beds for most of the year and only flow during and after a rainfall or snow melt. HB 175 would align Ohio's law with federal standards, which will bring consistency to Ohio's regulatory requirements. HB 175 is not intended to be anti-environment, as Ohio's wetlands and waterways would continue to be protected by existing state and federal regulations. Developers and entities impacting wetlands would continue to obtain Section 401 and Section 404 certification under the federal Clean Water Act. Instead of forcing bureaucratic regulations on projects, the state should encourage entities involved with land development to have their professional engineers use watershed storage mechanisms known as best management practices (BMPs) to lessen stream bank erosion, reduce sediments in streams, and improve water quality.

We would like to thank Rep. Hillyer for his diligent work on HB 175. We look forward to continuing to work with lawmakers, state regulators, and other stakeholders on efforts to reduce unnecessary government regulation, while also ensuring that our state's waterways are protected.

Sincerely,

Michael D. Cope
President, Ohio Coal Association