

**Testimony on HB 282 before the Energy and Natural Resources Committee May 27,2021**  
**Roxanne Groff**

Chairman Stephens and members of the committee,

You have before you for consideration, a very controversial bill. You are weighing the future of a small business owner, safety of citizens in the winter and a contentious by-product of the oil and gas industry you call Brine, being allowed to as a commodity be exempt from some Ohio laws. I have read HB 282 and while flawed at the very least, I can find no language that would make this bill acceptable in protecting the public from the potential harmful effects of an already under regulated product of the oil and gas industry.

While researching the reason for this bill to be introduced I found that Senate Bill 2 was before the Senate Energy and Natural Resources Committee in 2017 and Tony Fiore testified on behalf of Duck Energy that it was necessary for the legislature to remove “regulatory burdens” placed on the private sector which manufactures a deicing agent from raw brine. This bill has circled around and around the legislature for 4 years. Citizens have opposed in great numbers, organizations have opposed it, local governments have opposed it and most importantly, ODNR has opposed it.

Duck Energy’s product AquaSalina is already on the shelves in stores, it is already being used by government agencies, and the public. What burdens are placed on this company that is prohibiting it from manufacturing or selling its product?

HB 282 adds 1509.228 to current law which confuses me as to how a person seeking a permit demonstrates compliance with section 1509.22 and 1509.227 and will “demonstrate to the chief that the intended use of the commodity is not expected to result in damage or injury to public health”.

Especially when under section D The chief may establish reporting requirements as are reasonably necessary to confirm that the production and use of the commodity complies with the requirements of this chapter. The chief may, at reasonable times, collect samples of the commodity ONLY four times a year!

. The designation of ODOT as the responsible regulatory authority in no way avoids the required, complex Ohio and federal requirements and responsibilities that will attach as soon as the waste is designated for application to the surface of the earth. ODOT is neither prepared nor qualified for regulation of these potentially hazardous materials.

The methods for removing organic compounds, solids, the high levels of toxicity of saline are cumbersome and expensive. What agency defines what is safe? What are the “other contaminants” removed from the waste that are supposed to make a commodity safe? What method of removal is used to remove potential toxic compounds ?

HB 282 egregiously restricts the chief’s authority over processed brine used for commodities. Specifically, (D) line 44, the bill states. “the chief shall not adopt rules or establish or impose additional requirements applicable to commodities

governed by 1509.228.” No bill should be adopted without the ability to promulgate rules in the future!

ODNR has more than once weighed in on this legislation. You have been given 13 points of important facts that clearly demonstrates that this committee must not pass this bill on for further consideration.

- The bill eliminates all current statutes that regulate the spreading of conventional oil & gas brine for ice and dust control for brine that is deemed a “commodity” by a third party of which the Division has no input.
- The bill eliminates current statutory requirements for local government approval for the spreading of conventional oil & gas brine for ice and dust control on that government’s roads for brine that is determined a “commodity”.
- Exempts “commodity” brine spreading from ten minimum safety standards for spreading, reporting requirements, and bonding and insurance requirements for brine haulers established in current law.
- Prevents cradle to grave tracking of brine hauling and disposal in Ohio. An owner could report brine production at a well, but without reporting requirements of “commodity” brine spreading, the Division would have no record of its disposal.
- Previously amended the statute to decrease the one-time brine hauler registration fee from \$500 to \$50 in response to past versions of the legislation.
- If the “brine” is a commodity and a third party approves the use, the draft states that no provision of Revised Code may apply to it. Thus, once a commodity always a commodity.
- The bill prescribes the criteria that the Division must use for approval as a commodity but, it also eliminates the Divisions ability to conduct regulatory oversight in a manner consistent with routine inspection policies established to ensure the safety of the public and the environment from Division permitted activities. The bill only allows testing four times a year by the Division.
- The bill requires the Division to accept the approval of third-party entities evaluation that the Division had no knowledge of, input on, or any legal authority to require any input on.
- Two of the listed third-party approvers that directly affect if brine is a “commodity” are and may be out of state with no Ohio regulatory oversight.
- The proscribed acceptance limit for Ra-226 @20,000 pCi/l and Ra-228 @2,500 pCi/l are inconsistent with concentrations currently approved in other States such as North Dakota and Colorado for the spreading of conventional oil & gas brine for ice and dust control. This value is four times higher than some other states that regulate brine spreading.

- The bill allows for any person to use the “commodity” for ice and dust control. The long- term impact for private use is unknown. Regarding it’s radioactive content, commercial use for road-spreading and personal use at home present entirely different human exposure risks.
- The bill requires the Division to approve brine as a commodity using criteria as a one-time approval process and specifically prohibits any future changes or updates to the process regardless of unanticipated or unintentional consequences of its use.
- Because the Division regulates brine spreading, the Division will have to fulfill public records requests and answer questions of the public even though the Division had no part in the approval and cannot stop the brine as qualifying as a “commodity”.

You will not find a single assessment, study or regulatory agency that uses the word *SAFE* to describe oil and gas brine as a deicer or AquaSalina. That is because, there have been no long term health studies conducted by an institute or an agency to prove there is any negligible harm to the environment or to the health of humans. On the other hand, you will find many studies, some of which are cited in the education packet sent to you by the Ohio Brine Task Force, with a few studies on the use of oil and gas brine as a deicer in regard to the radium found in the waste.

PNS, now Clear Roads, no studies on radium  
 ODOT, no studies on radium  
 Ohio counties and townships, no studies on radium

ODNR has began testing oil and gas brine including AquaSalina in 2017 because they oppose the use of oil and gas brine on roads, and finally looked at the radium levels because they needed data to reveal to you and the public that what WE have been saying all along....oil and gas waste is RADIOACTIVE. Therefore, AquaSalina, being oil and gas waste is RADIOACTIVE! What part of that word you don’t understand is only because you choose not to.

This bill is on you the lawmakers. You have been educated to the best of our abilities and the bill has been sugar coated as to the problems with oil and gas waste being made into a product for use by the public with no regulations, by Mr. Mansbery.