

**May 14, 2015**

**Testimony for submission for May 14, 2015  
Hearing of HB 64 as passed by the House  
State Senate Finance Subcommittee: Chairperson Uecker**

Mr. Chairman and members of this subcommittee, thank you for allowing me time to speak on a topic of concern to this body and the public in general. That would include regulations regarding the use and reporting of hazardous chemicals at traditionally drilled, as well as hydraulically fractured gas and oil wells. I will be speaking as an interested party because I have concerns on only those portions of HB 64 that refer to the inclusion of the Dept of Natural Resources in the process of reporting of hazardous chemicals and their immediate notification of emergency incidents occurring at these well sites. This information is already addressed in ORC 3750 with minimal mention of DNR, but it could and should be updated and made inclusive rather than creating new law.

I am the Program Director for the Stark County Local Emergency Planning Committee. I have recently had discussions with Ohio Emergency Management Agency and LEPC personnel in southeast Ohio where hydraulic fracturing is being conducted intensively. I would like to emphasize that I am not speaking for, or representing any environmental, industry or special interest group. I am simply addressing concerns regarding DNR proposing these changes without inclusion or commentary from LEPCs or considering many of the important changes that should be made to ORC 3750.

Local Emergency Planning Committees, were created by and are charged by ORC 3750 with overseeing the use, production, storage, transportation and potential release of Hazardous Substances or Extremely Hazardous Substances at the county level. We do this in conjunction with the State Emergency Response Commission which was also

created by ORC 3750 to oversee the LEPCs. With the exception of Green and Montgomery Counties where they are combined, each of the other 86 counties in Ohio has an LEPC.

Ohio Revised Code Chapter 3750 mirrors SARA Title III, otherwise known as the Emergency Planning Community Right-to-Know Act of 1986. It was passed in response to the tragic accidental release of methyl isocyanate gas which took the lives of 5,200 and injured thousands more in Bhopal India in 1984, followed by other chemical release accidents that occurred in our own country.

Fixed facilities, including gas and oil wells which store hazardous substances in significant quantities are required to report the presence of these substances at their sites and must do so by March 1 annually to the State Emergency Response Commission, the Local Emergency Planning Committee and the jurisdictional Fire Department. Unfortunately, that report reflects the presence of those chemicals during the previous calendar year, it is not a reflection of chemicals in real time.. Facilities are also required to make initial notification to the SERC, LEPC and Fire Department within 90 days of the arrival on site of any hazardous substance if there is sufficient quantity to satisfy the requirement. If explosives are brought on site, as they are for hydraulic fracturing, that notification is to be done immediately.

The State Emergency Response Commission considers gas and oil wells to be subject to the annual reporting as just described. I refer you to a booklet published by the SERC effective January 2015 which, on page 2, describes the reporting requirements for gas and oil wells. These reporting requirements are addressed to the SERC, the LEPC, and the fire department. There is mention in ORC 3750.081 allowing gas and oil wells to file

reports with DNR, rather than SERC and LEPCs and some question the timely submission of that information to 1<sup>st</sup> Responders and the LEPCs and the general public.

Though not representing them today, I am an appointed member of the SERC. I have been present at recent SERC meetings where DNR has reported progress on several issues including the new 1<sup>st</sup> response program. I congratulate them on this effort but I question how much direct input they have sought from the EMA and or the fire service which are the agencies that would be required to confront an emergency in the field.

On Monday of this week I talked with EMA Directors from Belmont, Monroe, Crawford, and Noble counties. They all said their interaction with DNR has been minimal and the only way they have established good communication with well company owners is by contacting them directly. DNR does not seem to have the staffing or ability needed to facilitate the type of interaction needed between well owners and EMA or 1<sup>st</sup> Responders. If DNR is looking to increase their regulatory oversight in this area, perhaps they should start by building a groundwork that enhances communication and cooperation between all the players, both in private industry and government.

I can state with confidence following conversations with other EMA/LEPC officials just this week that the 90 day reporting of the presence of chemicals and immediate notification of the presence of explosives on site are not being followed by all oil and gas drillers around the state. The presence of DNR well inspectors at these sites does not seem to be having a corrective effect on this lack of reporting. This 90 day timeline makes notification to 1<sup>st</sup> Responders less effective when the chemicals come and go before they are aware of them. This does not allow them to prepare for potential incidents involving these chemicals. It is the opinion of many that this notification requirement in ORC 3750 should be amended to include all facility sites including gas

and oil wells. Some would argue that scheduling and notification of the arrival of these chemicals would be difficult. My response as a retired firefighter is that I would rather be told that chemicals and explosives were being brought into my jurisdiction and have that schedule changed than to not be told until after an incident.

When ORC 3750 was written, hydraulic fracturing was not exactly on the radar of 1<sup>st</sup> Responders or the public. That certainly is no longer the case.

As previously stated, the State Emergency Response Commission and the Local Emergency Planning Committee are responsible for the oversight of the use of Hazardous substances. Looking back to April 17, 2013 to the fire and explosion that killed 14 and injured 200 that occurred in West Texas, it becomes obvious why all LEPCs and the SERC are committed to the accurate and timely reporting on Hazardous Substances to all 1<sup>st</sup> Responders and members of the community.

HB 64 currently contains several references intended to have DNR be the sole repository for information regarding the storage and use of chemicals at well sites. Other agencies would be required to access their website to gather that information. We suggest a solution to this problem may be to remove this language from HB 64 and have the State Emergency Response Commission and the Local Emergency Planning Committees and other interested parties including DNR to meet to update ORC 3750 to enhance the reporting of these chemicals.

There are other issues in ORC 3750 that should be addressed simultaneously with these changes. Pipeline infrastructure, both new and old, is a serious issue for state agencies charged with emergency preparedness. Many counties across the state will be impacted by the installation of large diameter, high pressure gas lines in 2015 and into

the future. Such pipelines have been the source of fires and explosions in the past and we must prepare for them in the future. I refer to the gas line explosion that occurred on February 10, 2011 in Columbiana County and the massive explosion in Fresno, California on April 18, 2015 that injured 14 people. There are other limitations on LEPCs that inhibit well rounded emergency planning and preparedness. Many of these concerns could be addressed by updating 3750.

Citizens have the “Right-to-Know” about chemicals being used in proximity to their homes and places of worship and business and it will take more than these few suggested items to satisfy that need. If we are going to address the problem, let us address the whole of ORC 3750, not just a part of it from the viewpoint of a single agency.

To be sure, DNR is a valuable asset in Ohio and should have a seat at this table for emergency planning and preparedness and it is an important part of Unified Command at any well incident or other emergency that impacts people and the environment but DNR should be working as part of the larger group. We welcome them to join with us to ensure the safety of the citizens of Ohio.

In conclusion, my colleagues and I believe it would be both more effective and efficient to have representatives from the DNR meet with members of the State Emergency Response Commission and Local Emergency Planning Committees and representatives from the 1<sup>st</sup> Responder community to discuss ways to enhance the accurate and timely communication of information. ORC 3750 is an established law that can and should be updated but it should be done with all appropriate state agencies cooperating in a common effort. I appreciate the time you have given me and would be happy to attempt to answer any questions you may have for me.