



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

Director Craig W. Butler
House Bill 49 Testimony
House Finance Subcommittee on Agriculture, Development and Natural Resources
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Good morning, Chairman Thompson, Ranking Member Kelly and members of the House Finance Subcommittee on Agriculture, Development and Natural Resources. I am Craig Butler, Director of Ohio EPA, and I appreciate the opportunity to provide testimony on House Bill 49, Governor Kasich's budget proposal.

Governor Kasich believes that the State of Ohio must, as businesses do every day, work to make positive changes, and continue to make Ohio a great place to live, work and recreate. As Director of Ohio EPA, I have a core mission of protecting the environment and public health, but I also believe that this mission can and needs to support sound economic growth and job creation.

Much has been accomplished over the last six years. We have been able to create a better Ohio by creating new private sector jobs, balancing the budget and lowering taxes. At Ohio EPA, we continue to invest billions of dollars in water and wastewater infrastructure, work to protect our critical water and air resources, clean up abandoned/blighted industrial properties for reuse, eliminate unnecessary rules, provide confidential technical assistance to our customers, and strengthen Ohio's jobs-friendly business climate. I am proud to report that we have successfully achieved these significant accomplishments while maintaining fiscal discipline.

Governor Kasich's budget for the next two years will start – as he's always done it – with conservative, responsible budgeting strategies. The governor has challenged us to take new, more aggressive steps to bring innovation to our agencies' programs. As it has been since its creation in 1972, Ohio EPA's mission is to protect the environment and public health by ensuring compliance with environmental laws and demonstrating leadership in environmental stewardship. I take very seriously our commitment to ensure Ohio companies comply with our laws and protect public health. Where I differ from some past Directors is that I believe we can and should first focus on providing business assistance tools to assist companies to comply with our complex regulations, and, at the same time, help businesses expand and locate in Ohio and create jobs and economic prosperity in Ohio.

As examples of this commitment, the Agency provides millions per year in funding to local governments and organizations through grants for air pollution control, environmental education, diesel school bus retrofits, watershed restoration and preservation. Ohio EPA also supports economic development by awarding hundreds of millions per year in federal and state funded low-interest loans

and grants to local communities for wastewater and drinking water infrastructure projects. We also have a team of full-time experts across the state whose only job is to provide much needed, and confidential, technical and business assistance to companies to help them meet their goals. In fact, this is where I began my career and I still believe (and often hear) that this program is of critical importance to the business community – and is highly regarded as providing high quality services. At the end of the day, Ohio EPA is a national leader in balancing our responsibility of protecting public health and the environment, and assisting companies to locate and expand in Ohio.

As an overview of who we are, we have approximately 1,100 full-time and 100 seasonal employees in Columbus, Reynoldsburg, Groveport, Twinsburg, Bowling Green, Logan, and Dayton. We issue permits authorizing the installation and operation of pollution sources; provide oversight through inspections; conduct air, water, and ground sampling; monitor and report on environmental quality; provide compliance assistance and environmental education to industry and the general public; help businesses prevent pollution; and respond to thousands of spills and other emergencies 24/7.

Funding for Ohio EPA comes predominately from fees paid by regulated entities and federal funds. We receive almost no General Revenue Fund (GRF) dollars – with one exception – the testing of auto emissions in seven counties in Northeast Ohio (E-Check). The General Revenue Fund will provide \$9.9 million per year toward the \$11.3 million annual cost of the program. The E-Check program is needed to maintain the current federal ozone standard especially considering the new more stringent federal standard beginning in October 2017.

Our fiscally responsible but protective budget proposal for fiscal year 2018 is \$187.4 million, a 4.6 percent **decrease** from fiscal year 2017. Funding for fiscal year 2019 would be \$189.5 million, a slight 1.1 percent increase from fiscal year 2018.

Ohio EPA's budget does **not** include any fee increases or new fees but we are asking to:

- 1. Maintain services with existing Ohio EPA fees** - Ohio EPA's Division of Surface Water, Division of Air Pollution Control, Division of Drinking and Ground Waters and the Division of Materials and Waste Management are extending but not increasing their environmental program fees.
- 2. Make changes so we can use our existing funding more efficiently.** These amendments include:
 - Allowing Ohio EPA to use Water Pollution Control Loan Fund (WPCLF) administrative fees for water quality work throughout the state.
 - Permitting a transfer of up to \$1 million instead of mandating the transfer from the Scrap Tire Abatement Program to the Scrap Tire Market Development Fund each fiscal year.
 - Permitting an annual transfer of up to \$0.50 per ton from the annual Title V Clean Air Emission Fee instead of mandating the transfer to the Small Business Assistance Fund managed by the Ohio Air Quality Development Board (OAQDA).

- Cash transfers in temporary law to support the Title V and E-Check air pollution control programs.

Our proposed budget will reduce our number of full-time funded positions by 17 and will be achieved through attrition. Ohio EPA continues to strategically reduce staff, a small but significant reminder that we are watching the state's dollars carefully and adjusting staffing as needed, not simply adding more staff when new state or federal requirement come along.

I would also like to provide you with some specifics of how our proposed budget focuses on improving efficiency and promoting innovation at the Agency:

First, we are asking to memorialize in statute the consolidation of existing compliance, technical and financial assistance programs under a single division to create a "one-stop shop" within Ohio EPA for customers seeking resources to help them achieve compliance. Through a more efficient, coordinated and strategic approach to administering resources, Ohio EPA is better positioned to help more regulated entities with a greater level of service.

Another proposal would transfer asbestos certification from the Ohio Department of Health (ODH) to Ohio EPA. Currently, ODH certifies asbestos removal contractors, and Ohio EPA regulates asbestos notification, including removal and disposal. The transfer will streamline the entire process into one agency and help ensure that those operators who are certified to remove asbestos in accordance with state and federal law are complying with the law. This proposal creates a "one-stop shop" for contractors, operators, and citizens; reduces onsite inspections from two state agencies to one; consolidates state field workers and staff to eliminate duplication; and improves asbestos compliance and enforcement that protects citizens from relying on known problematic companies and individuals.

Third, we are asking to update the statute governing Local Air Agencies. While updating the names and jurisdictions of the local air agencies that work with Ohio EPA's Division of Air Pollution Control, this provision also improves efficiency by allowing local air agencies to perform additional work in nearby counties.

Fourth, many of Ohio EPA's environmental fees have an additional late payment penalty established in the Revised Code to encourage on time payment. Situations arise where it may be appropriate to waive or reduce a late payment penalty. For example, when a business self-reports an underpayment of fees in a prior period. This amendment would give Ohio EPA the flexibility to waive or reduce late payment penalties and it would allow environmental fees to be waived during a state of emergency.

Fifth, approximately 1,300 Ohio companies are required to submit annual chemical inventory reports to both U.S. EPA and Ohio EPA. This proposal streamlines this requirement by recognizing the electronic reporting mechanism of U.S. EPA as simultaneously fulfilling the obligation of the state

requirement, eliminating the state filing and fee, but retaining Ohio EPA's authority to take enforcement action if a Toxic Release Inventory violation occurs.

Sixth, we propose consolidating application and issuance fees for the wastewater discharge permit program or NPDES program. This change would end the multiple billing requirements in the permit process and have a combined fee at the time of application. Combining application and issuance fees will result in no net fee increase to applicants; it simply makes the billing process easier, less confusing and provides a cost savings of check processing to the Agency.

Lastly, Ohio EPA and Ohio Department of Transportation (ODOT) seek to continue their partnership in awarding money through the Diesel Emissions Reduction Grant program with spending authority of \$10 million each year at ODOT for administration of the awards. These funds support the repowering or replacement of aging diesel trucks, transit and school buses, switcher locomotives in Ohio rail yards, and tugboats in Ohio River ports with new cleaner diesel or alternative fuel technology. These grants assist both public sector and private sector fleets.

This budget proposes to fix or fill critical gaps in our authority so we can continue to protect Ohioans. For example, we are seeking approval to enter and evaluate explosive gas generation and migration issues at any solid waste disposal facility or closed solid waste disposal facility. Our request is to seek authority for the director to issue orders to responsible parties to address explosive gas formation and migration if determined that there is a threat to human health, safety, or the environment. The statute is unclear and has, in the past, caused problems for Ohio EPA to access these properties to determine if there are hazardous conditions needing immediate attention.

Likewise, in 2015 the Ohio Supreme Court's decision in *Fairfield County Board of Commissioners versus Nally, 2015*, ruled that the thousands of studies we are required to do to determine stream quality and which are used in setting stream discharge permit limits (Total Maximum Daily Loads (TMDLs)) are not valid and, going forward, would be subject to formal rulemaking.

We have been working with communities and dischargers that will be impacted by this decision and are seeking statutory approval that would allow past TMDL studies approved by U.S. EPA prior to that date (March 24, 2015) to remain exempt from rulemaking. We are also seeking authority for any new TMDLs to be exempt from rulemaking, but develop more robust public involvement and due process requirements for those affected by TMDLs.

And finally, in preparing our budget proposal, we reviewed the code that applies to Ohio EPA and have proposed to eliminate several antiquated statutory provisions that are no longer in use.

As evidenced in my testimony today, I share the Governor's vision to strengthen Ohio's job-friendly business climate while maintaining fiscal discipline. Ohio EPA will continue to strive to protect the environment and public health while balancing the needs of business to expand and locate in Ohio.

Thank you again for the opportunity to testify today. I would be happy to answer any questions you have.