



March 15, 2023- House Finance Subcommittee on
Agriculture, Development, and Natural Resources

Testimony on House Bill 33 **Anne M. Vogel, Director**

Good morning, Chairman Jones, Ranking Member Troy, and members of the House Finance Subcommittee on Agriculture, Development, and Natural Resources. My name is Anne Vogel, Director of the Ohio Environmental Protection Agency. Thank you for giving me the opportunity to speak to you today about Ohio EPA's fiscal year 2024 – 2025 budget requests.

Ohio EPA Overview

Since 1972, Ohio EPA has fulfilled our important mission of protecting the environment and citizens of Ohio. Ohio EPA does this through many regulatory programs that help ensure that we have clean water, breathe clean air, and are protected from hazards associated with managing wastes, spills, and releases. Ohio EPA has an important role in supporting economic development through efficient permitting processes and helping communities bring old industrial sites back to useful life. Helping keep citizens informed on environmental topics, supporting students through environmental education and conducting outreach to help businesses understand our regulations are also important activities of our Agency.

Ohio EPA has a team of just over 1,100 employees who assist in permitting new development projects, responding to environmental emergencies, inspecting regulated facilities, investigating environmental complaints, providing financial, technical, and compliance assistance and orchestrating environmental education and outreach. Ohio EPA is a leader among state environmental agencies, with nationally renowned experts in their fields providing their expertise to Ohio businesses and communities every day.

Ohio EPA has five district office locations throughout the state: a Central office in downtown Columbus, and district offices in Bowling Green, Dayton, Logan, and Twinsburg that allow our team to have a strong presence statewide and make an impact in the communities they serve.



Ohio EPA also has a laboratory at the Ohio Department of Agriculture campus in Reynoldsburg, where Ohio EPA staff analyze over 100,000 tests annually for pollutants in a variety of media including drinking, ground and surface waters, sediment, air, and fish tissue for Ohio's Sport Fish Tissue Monitoring Program. Additionally, Ohio EPA has a Groveport field

office, that houses the department's Office of Emergency Response that responds to spill and other environmental emergencies 24 hours a day, 7 days a week. It is these Emergency Response staff who responded immediately to the East Palestine train derailment.

East Palestine Overview

As you know, on February 3, 2023, a Norfolk Southern train derailed in the Village of East Palestine, OH. Ohio EPA's Emergency Response team arrived on scene at 12:25 a.m. to investigate the extent of environmental impacts, and coordinate response actions with the fire department, hazmat teams, and other response partners.

Since that early morning of February 4, Ohio EPA staff have worked around the clock to contain the environmental impact, oversee the removal of contamination, and begin testing to ensure the safety of residents served by the municipal water system in East Palestine.

The immediate emergency response included containing the release of chemicals into the nearby Sulphur Run and pumping clean water around the containment area to isolate any grossly contaminated water and sediments. This minimizes chemicals flowing downstream while contractors work to remove contamination through aeration and sediment washing.

Sulfur Run flows into Leslie Run, which flows into Bull Creek, which flows into North Fork Little Beaver Creek, which flows into Little Beaver Creek, which empties into the Ohio River. The latest water sample results of the Ohio River by the Ohio River Valley Water Sanitation Commission (ORSANCO) indicate no detections of chemicals from the derailment. In addition, no vinyl chloride has been detected in the surface

water anywhere outside the containment areas. This information can also be found at Ohio EPA's website.

To ensure the East Palestine's water supply remains safe following the Norfolk Southern train derailment, we have been sampling the five municipal supply wells and the treated water on a weekly basis since February 11, 2023. In addition to witnessing the sample collection by Norfolk Southern contractors, Ohio EPA is

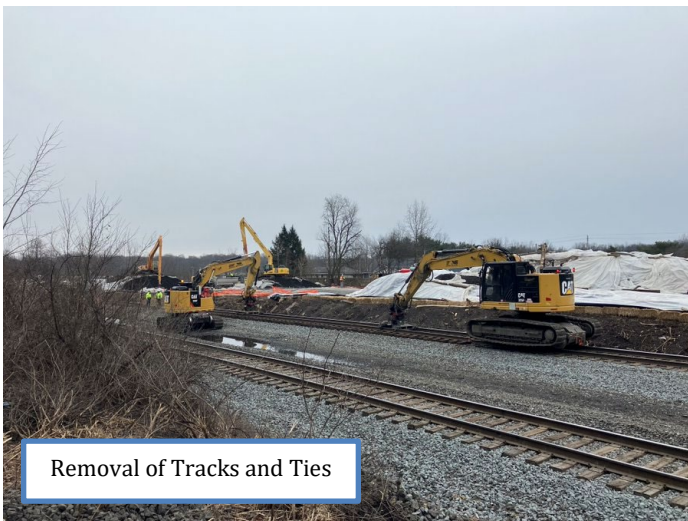


Ohio EPA Staff testing East Palestine Drinking Water

collecting an independent sample for separate confirmation analysis and testing for a broad array of Volatile Organic Compounds (VOCs) and Semi-Volatile Organic Compounds (SVOCs).

To protect the Village in the near- and the long-term, we installed sentinel monitoring wells between the municipal wellfield and contaminated waterways. These four monitoring wells will identify contamination to groundwater before it reaches the wellfield. Monitoring wells are being installed around the derailment site, and along with soil testing, will determine the presence and potential extent of any groundwater contamination. While the work and assessments at the derailment site proceed, Ohio EPA intends to sample the sentinel wells weekly. Lab results are posted publicly on Ohio EPA's website.

On February 21, U.S. EPA issued CERCLA 106 orders to Norfolk Southern. More



Removal of Tracks and Ties

information on those orders can be found on U.S. EPA's website. In coordination with U.S. EPA, Ohio EPA is tasked with reviewing, commenting and approval of the comprehensive Removal Work Plan (for multi-media investigation and clean-up) and the subsidiary plans for quality assurance, post-removal site controls and community involvement for East Palestine after the train

derailment. Ohio EPA will also provide regulatory, investigation and clean-up oversight support, as appropriate.

Ohio EPA will remain engaged in site investigation and clean-up activities well into the future, until the air, water and soil at the site have been thoroughly remediated,

sampled and tested to ensure the safety of the residents and the local environment. It will require months to conduct the initial investigation and remediation work, followed by an additional period of long-term monitoring to verify that the clean-up goals have been achieved.



Budget Overview

Now I want to shift focus back to Ohio EPA's budget. For Fiscal Year 2024, Ohio EPA's total budget request is \$272.5 million, and for Fiscal Year 2025 the request is \$275.5 million.

The increase from Fiscal Year 2023 is primarily attributable to the additional \$21 million appropriated for H2Ohio funding in both Fiscal Year 2024 and Fiscal Year 2025. Other increases include filling vacant positions, greater availability of recycling grants funding, and increased spending of federal infrastructure grant program funds awarded to Ohio.

Fee Extensions

Ohio EPA's primary sources of revenue are fees, settlements, cost recoveries, and penalties. Approximately 68 percent of Ohio EPA's requested appropriation is in dedicated purpose funds, revenue generated each year by fees which are paid by our regulated customers seeking permits, licenses, or those disposing of waste in the state of Ohio. Fee revenue collected by Ohio EPA is generated by fees that sunset every biennium. These include fees that support the air, drinking water, surface water, and waste management programs.

These fees allow Ohio EPA to support scrap tire remediation, certify public water system operators and license drinking water systems that provide clean drinking

water to Ohioans, permit wastewater systems for better water quality and issue federally enforceable state operating permits for industries through our air program, that if not for this permit these industries would be subject to additional federal requirements.

I want to thank the General Assembly's continued support of Ohio EPA's existing fees that have allowed our team to continue our important work of protecting Ohioans and ask once again that the legislature extend the sunset on these fees for another biennium. Ohio EPA is not proposing any new fees nor increases to any of our current fees, but requests extending sunset dates for applicable fees.

I am also asking for the General Assembly's support to adjust the allocations of two fees that have statutory allocations to specific funds within Ohio EPA. Adjusting these allocations will allow for targeted support to Ohio EPA programs that need it most without increasing any fees or impacting external stakeholders who receive portions of Ohio EPA fees.

E-Check

Ohio EPA is requesting \$27.7 million in continued General Revenue Fund (GRF) support to administer the E-Check program in Northeast Ohio. This allows for the E-Check program to be provided at no cost to individual motorists and is Ohio EPA's only GRF appropriation. The E-Check program is required by the federal Clean Air Act in seven Northeast Ohio counties that are not meeting federally mandated ozone air quality standards.

The federal Clean Air Act requires that Ohio maintain a mobile source emissions control program in areas of the state that do not meet the federal air quality standards for ozone. Every two years, motorists in the seven counties must take their vehicle in for an emissions test to renew their vehicle's registration and one of the many test stations, self-service kiosks, or repair shops that provide testing. The self-service kiosks allow motorists to test their vehicles conveniently 24-hours a day, 7 days a week.

Continued support for this federally required program prevents a reduction in federal highway funding and helps prevent additional regulations on the businesses that would hinder development in the Northeast Ohio region. Again, E-Check is provided at no cost to individual motorists due to the support of the General Assembly. The amount of GRF requested for the upcoming biennium will ensure all current stations and self-service kiosks remain open, with no cost to motorists at the test point.

Superfund Sites

In this budget, we are proposing to create a new fund to pay for Ohio’s portion of the cost-share on remediation and long-term care for certain sites on the National Priorities List, commonly known as “Superfund Sites”.

Superfund sites are federally led and managed, but states pay a 10 percent cost share when sites without a responsible party move to the remediation phase, and 100 percent of the costs in the post remediation phase. Having a stable source of revenue to pay for Ohio’s cost share increases Ohio’s chances of being able to draw 90 percent of funding for these sites from the federal government. Some of these projects can cost up to \$100 million in remediation needed and leveraging Ohio’s 10 percent contribution to the clean-up of these sites can cover substantial costs that Ohio would otherwise pay ourselves.

Ohio currently has 15 active Superfund sites that have not yet reached the remedial action state and Ohio will be responsible to pay our capital cost share and operation and maintenance on at least six of those sites. Prior to remedial action implementation, Ohio is required to sign a Superfund State Contract guaranteeing payment of our share of costs. Although U.S. EPA controls the schedule of when a site will begin remedial action, it is anticipated that Ohio will have new payments due in 2024 and 2025 and that payments will be required for decades beyond.



The new fund will also be used to cover the long-term operations and maintenance on remediated sites, which ensures the health and safety of Ohioans for years to come and can help these sites find a second life and be reused for commercial development or conservation such as the former Peter’s Cartridge site in King’s Mill, Ohio. Following the completion of remedial activities in 2017, a

portion of the former Peter’s Cartridge site was delisted from the National Priorities List. The delisted portion of the site was able to go through Ohio EPA’s Voluntary Action Program and a covenant not to sue was issued by Ohio EPA in 2021. The site has since been redeveloped for restricted residential and commercial use, and currently includes multifamily residential apartments and the Cartridge Brewing Restaurant.

Scrap Tires

Ohio EPA greatly appreciated the General Assembly's support of the changes to the scrap tire program in the last biennium. The collection of proposed changes in this budget request to the scrap tire program will reduce the number of tires dumped statewide and provide more opportunities for the state to partner with communities and organizations who want to help keep Ohio beautiful.

Ohio EPA will expand opportunities for communities, nonprofits, schools, and civic organizations to conduct scrap tire cleanups and amnesty events by reducing red tape for those holding clean up events and expanding eligibility to receive grant support from Ohio EPA.

Ohio EPA is requesting removing the financial barriers it takes to become a scrap tire transporter. These businesses provide critical services to Ohio's scrap tire management program and eliminating the registration fees and reducing the amount of financial assurance they must carry opens the door for more individuals to do business as a transporter.

And in the last biennium, the General Assembly graciously raised the ceiling for no-fault scrap tire clean-ups. This has allowed Ohio EPA to complete 6 no-fault clean ups of over 5,000 tires, like East Fork State Park in Clermont County where thousands of tires were being dumped and had become an eyesore for hikers, hunters, and horse riders.



Currently, Ohio EPA can only use funding to clean up tires at these sites, and residual waste is often left behind and must be removed at the cost of the property owner. Ohio EPA is asking for the ability to clean up the residual wastes at scrap tire clean-up sites, so that citizens and local governments are not left with additional costs, and sites are completely free of waste and debris.

Efficiencies: Innovate the Code and Environmental Covenants

There are also additional measures to increase efficiency included in the proposed budget. There is a provision that eliminates the current requirement to have original signatories sign any changes to an environmental covenant. In some

instances, the original signatories cannot be located and this would allow Ohio EPA to amend or terminate the covenant with the current owner of the subject property.

Additionally, EPA is included in the list of agencies proposed through the Common Sense Initiative to reduce cost of providing notices on agency actions by allowing the use of electronic notification.

I am excited about the opportunities this budget request presents for Ohio EPA to continue improving the lives of Ohioans around the state. As Governor DeWine said in his State of the State Address “We meet at a time of great opportunity for Ohio and its citizens”. I believe Ohio EPA plays a pivotal role in why businesses choose to build here and why people choose to live here.

As the Ohio EPA Director, I hope to continue to empower our team and our role in Ohio to keep this time of great opportunity rolling. Thank you for your time today and I am happy to answer any questions.