



John R. Kasich, Governor
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Director Craig W. Butler
House Bill 49 Testimony
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Good morning, Chairman Jordan, Ranking Member O'Brien and members of the Senate Finance Subcommittee on General Government and Agency Review. 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.

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 vehicle emission testing 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 provisions 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.

Our proposed budget focuses on improving efficiency and promoting innovation at the Agency and 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. Along with my testimony, I have enclosed the Ohio EPA 2018-2019 Biennial Budget fact sheet for your review but I will address three issues that may be of interest.

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, 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.

In addition, this budget proposes to fix or fill critical gaps in our authority so we can continue to protect Ohioans and I would like to discuss a specific example. In 2015 the Ohio Supreme Court’s decision in *Fairfield County Board of Commissioners versus Nally*, 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.

Ohio EPA submitted placeholder language in the “as introduced” version of House Bill 49 to respond to the Ohio Supreme Court’s decision. We have continued to work with stakeholders since the introduction of the budget and will be submitting a modification that will reflect those discussions and, hopefully, will be an agreed upon and a final amendment to this issue.

I would like to speak to a provision added in the House-Passed version of the budget. Ohio EPA is strongly opposed to the language added in Section 737.20 that addresses the Volkswagen (VW) Mitigation Trust Settlement Funding. The language is identical to the language we opposed in HB 26, the transportation budget, that was removed from that bill because it short-circuits the process for evaluating projects from all 10 allowable uses of the funding to almost exclusively benefit one particular sector, transit systems, at the expense of other sectors such as school buses, locomotives,

trucks, ports/airports and marine projects. We would respectfully request the Ohio Senate delete Section 737.20 that earmarks a portion of the VW funding for specific transit ("rolling stock") projects.

In the House passed version of House Bill 49, Ohio EPA's spending authority was reduced by \$5.6 million in fiscal year 2018 and \$6.1 million in fiscal year 2019 across five Non-GRF line items. The line items appear to have been reduced by the House because they showed increased funding from FY 2017 to FY 2018. Those increases are the result of budgetary restructuring and higher continuation costs in certain programs, not agency growth. In fact, Ohio EPA's budget as introduced in the House included a decrease in funding and staffing.

The five Non-GRF line items are in the following programs: solid waste, response and investigation, air pollution control, laboratory and federally supported clean up and response line items. If the spending authority is not restored, Ohio EPA would have to cut planned level of service in these programs. I will highlight a few examples.

In Air Pollution control, the budget as introduced included a reduction of 13 positions in the air pollution control program due to falling revenue in our Title V program. The additional reduction would directly impact the Division of Air Pollution Control's ability to perform core program activities, including monitoring air quality to ensure compliance with national health-based standards, and issuing permits in a timely manner to enable Ohio companies to expand and start new businesses.

The *federal* funding in the Federally Supported Cleanup and Response Line item supports the oversight of the cleanup of federal sites contaminated with hazardous waste and radioactive material. The funding also supports regulation of the hazardous waste industry, cleanup and redevelopment of abandoned / contaminated properties. If this spending authority is not restored Ohio EPA would not be able to spend Federal grant dollars to support these important activities.

In Solid Waste, the funding supports the regulatory oversight of infectious waste, solid waste and construction and demolition debris landfills. Running approximately 15,000 samples a year that are analyzed for over 100,000 contaminants our laboratory funding supports staff and materials for sample analysis, including testing for lead and harmful algal toxins in drinking water and known carcinogens in air samples.

Finally, the funding in the Response and Investigations program supports our efforts to provide 24/7 emergency response to toxic spills. Ohio EPA responds to over 1,200 incidents annually to protect the public from hazardous material, radiological and biological threats.

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.