



Environment Committee

March 12, 2015

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2015 Environment
Committee Calendar

Thursday, March 12
Tuesday, June 16
Thursday, October 22

OMA Environment Committee Meeting Sponsor:



One Firm WorldwideSM



OMA Environment Committee

March 12, 2015

Agenda

Welcome & Roll Call	Chairman Joe Bulzan, RockTenn
EPA Update	Andrew Booker, Ohio EPA Adam Cummins, Ohio EPA Channon Cohen, Ohio EPA
Guest Presentation	Saul Kliorys, Sustainability Manager Great Lakes Brewing Co.
Counsel's Report	Frank Merrill, Bricker & Eckler
Guest Speaker	Mike Fraizer, Assistant Policy Director for Environment, Energy, and Agriculture Office of Ohio Governor John R. Kasich
Public Policy Report	Rob Brundrett, OMA Staff
Lunch	

Please RSVP to attend this meeting (indicate if you are attending in-person or by teleconference) by contacting Denise: dlocke@ohiomfg.com or (614) 224-5111 or toll free at (800) 662-4463.

Additional committee meetings or teleconferences, if needed, will be scheduled at the call of the Chair.

Thanks To Today's Meeting Sponsor:



Mike Fraizer, Assistant Policy Director for Environment, Energy, and Agriculture to Ohio Governor John R. Kasich

Since August of 2014, Mike Fraizer has served as the Assistant Policy Director for Environment, Energy, and Agriculture to Ohio Governor John R. Kasich. Mike covers and oversees the crafting and implementation of policy effecting the Ohio Environmental Protection Agency, Department of Natural Resources, Public Utilities Commission, and Department of Agriculture. Recently, Mike has focused on the issues surrounding Lake Erie, Shale Oil and Gas, and environmental regulation and reform.

Before coming to the Governor's office Mike served as the Senior Policy Advisor at the Public Utilities Commission of Ohio (PUCO). Mike focused on high-level policy issues and implementation for both legislative and regulatory affairs.

Mike obtained his B.A. in Integrated Social Studies from The Ohio State University, and a Masters of Public Administration from Ohio University. Mike and his wife reside in Newark, Ohio.



NEWS RELEASE

FOR RELEASE: February 24, 2015

CONTACTS:	Ohio EPA	Dina Pierce, (614) 644-2160
	The Ohio Manufacturers' Association	Robert Brundrett, (614) 629-6814
	Ohio Council of Retail Merchants	Lora L. Miller, (614) 221-7833
	Ohio Chamber of Commerce	Charles Willoughby, (614) 228-4201

Partnership Aims for Improved Recycling Data

Recycling saves Ohio’s landfill space, conserves natural resources and saves on disposal costs. Recycling also creates jobs and is good for Ohio’s economy.

However, getting accurate information about recycling activities that take place at businesses throughout Ohio is challenging. As a result, the Ohio Chamber of Commerce, Ohio Council of Retail Merchants, The Ohio Manufacturers’ Association, Ohio EPA and Ohio’s local solid waste management districts have teamed up for a statewide initiative to encourage commercial, retail and industrial businesses to submit their recycling data.

Each year, Ohio’s 52 local solid waste management districts survey businesses in their districts about the amounts and types of materials being recycled. The data is reported to Ohio EPA, which compiles the information to get a statewide picture of recycling activities, trends and opportunities.

The data collected help determine how much material is being diverted from Ohio’s landfills, reveals infrastructure needs and determine whether local solid waste management districts are meeting Ohio’s recycling goals. Greater participation in the surveys leads to more accurate data and a better understanding of what is happening locally and throughout the state.

Voluntary participation in the survey benefits businesses by connecting them to the local solid waste management districts that serve their region. Solid waste districts offer services such as waste assessments (figuring out what waste materials may be recycled rather than thrown away and identifying markets for these materials), financial assistance through grants, employee education and other technical assistance.

“Recycling is important to Ohio’s environment and its economy. The surveys help us know if we are meeting recycling goals and how we can better serve Ohio’s businesses and communities,” said Ohio EPA Director Craig W. Butler.

“Industry is an enormous consumer of recycled materials, such as metals, glass, paper and plastics; thus, manufacturers are strong advocates for recycling systems in Ohio. Measuring and reporting recycling efforts is valuable for all of Ohio’s audiences,” said Rob Brundrett of The Ohio Manufacturers’ Association.

Ohio EPA recently launched a collaborative [website](#) that includes contact information for each solid waste district in Ohio and access to the recycling survey. Recycling data from the previous year also is available. The survey only takes about 15 minutes to complete. Hard copies of the surveys may also be mailed out by solid waste management districts. Participating either way – through the new website or a hard copy received directly from a solid waste management district – will help Ohio’s solid waste management districts and Ohio EPA improve their understanding of recycling by businesses and identify where more help may be needed.

In addition to the services offered by solid waste management districts, Ohio EPA offers grants, technical assistance and recognition to businesses and organizations who want to recycle more or develop markets for recycled products. Ohio EPA staff can help businesses audit their processes to find ways to become more efficient, reduce waste and find places to recycle materials.

Many businesses in Ohio have already found that recycling helps them meet their own sustainability objectives and improve their bottom lines. The Ohio Chamber of Commerce, Ohio Council of Retail Merchants, The Ohio Manufacturers’ Association, Ohio EPA and Ohio’s local solid waste management districts hope that this new partnership will encourage more businesses to share their recycling information, whether they have been recycling tons of material for years or are just getting started.

-30-

www.epa.ohio.gov

GREAT LAKES[®]

BREWING CO.



An exceptional family of beers.

Our Sustainability Story

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Social Sustainability

- Business Development and Job Creation
- Compensation and Benefits
- Appreciative and Engaged Culture
- Philanthropy

Economic Sustainability

- Strategic Planning
- Product Quality
- Operational Excellence
- Customer Relations

Conclusion and Contacts

Company Profile

- Founded in 1988, first craft brewery in the State of Ohio, only brewery in Cleveland
- Private ownership, Pat and Dan Conway
- Distribution in 13 states
- 5 year-round beers, 9 seasonal products
- Commitment to three pillars of sustainability: social, environmental and economic sustainability
- 1,000 barrels produced in 1988
- 150,000 barrels produced in 2014

History of Beer Production in US:

- In 1900, there were about 2,000 breweries
- In 1950, there were about 50 breweries
- Today, there are about 3,000 breweries with 2,000 more being planned



Material Issues

Product

- Quality
- Innovation

Employee

- Equitable Compensation
- Training and Education
- Health and Wellness
- Appreciative and Engaged Culture
- Safety

Community

- Business Development
- Philanthropy
- Advocacy for Sustainability
- Promoting Responsible Consumption of Alcohol

Environment

- Water Management and Stewardship
- Energy Management
- Waste Management
- Responsible Purchasing
- Distribution Impact

Business

- Profitability
- Succession and Staff Planning
- Distributor and Consumer Relations
- Strategic Planning
- Business Literacy Among Staff
- Operational Excellence

Goals to 2017

Environmental

- Reduce water usage on a per-unit basis by 15% by 2017 over 2013 baseline
- Implement energy efficiency projects from a prioritized list and track total return on investment
- Provide education to employees to encourage alignment with Cleveland's Climate Action Plan
- Review environmental profiles of primary suppliers and distributors

Social

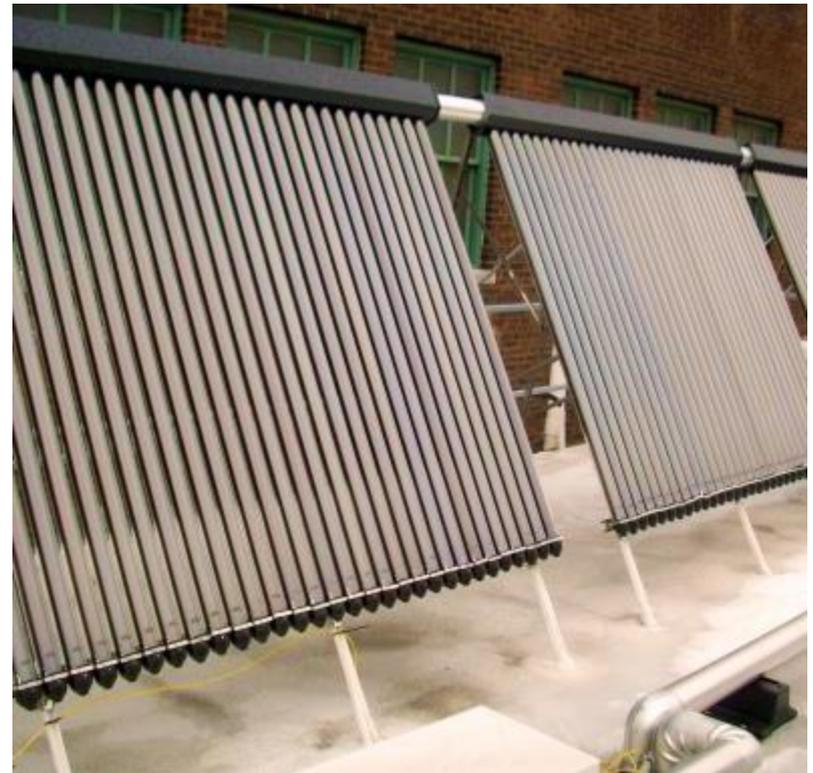
- Maintain company-wide employee retention rate of at least 95% each reporting year
- Increase annual training hours per employee by 25% by 2017 over 2013 baseline
- Improve Total Recordable Incident Rate (TRIR) by 20% by 2017 over 2013 baseline
- Continue to increase the percentage of employees who are paid at or above the market rate through 2017

Economic

- Maintain stable and sustainable growth through appropriate expansion of capacity
- Improve governance by creating a management and financial succession plan
- Improve business literacy among our staff as a means to improve decision making
- Contribute 1% of sales to philanthropic efforts in our distribution footprint in each reporting year

Energy Management

- Programs to reduce energy consumption in brewery achieving average reduction of 6.5-8% per year
- 12-panel solar thermal array saves about 120 Mcf of gas per year (about one American household's usage)



Water Management and Advocacy

- Programs to reduce water consumption achieving average reduction of 5.5% per year
- Current water usage about 5.8 barrels of water to make barrel of beer
- Great Lakes are 20% of world's freshwater and 80% of nation's freshwater
- Annual Burning River Fest has raised \$400,000 for groups working in water conservation



Responsible Purchasing

- 80% or more of the carbon footprint of our product comes from our raw materials and product distribution
- Beginning conversations with suppliers regarding their environmental and social initiatives
- Vendors of point of sale materials have been vetted using responsible purchasing criteria



Summary:

Food and Farming

- Pint Size Farm founded in 2008
- Ohio City Farm founded in 2010
- Since 2007, \$1.2 million in local foods purchasing
- 3 FTE jobs supported through our investments in local foods



Waste Management

- Traditional recycling (cardboard, plastic, scrap metal, etc) yields 70% waste diversion rate
- Spent grain used as feed on dairy farms and for other purposes
- Other byproducts used to make new products:
 - “lowfill” beer used to make ice cream and other products
 - Fryer oil used as fuel in Fatty Wagon vehicle
 - Spent grain used as soil amendment on small farms



Summary:

Advocacy for Sustainability

- Host environmental networking groups
- Learn from environmental leaders
- Participate in lectures and classes through industry groups and at universities
- Provide information through sustainability reporting and outreach



Business Development and Job Creation

- Economic recovery of our neighborhood – wages 40% below national median in 1990; within 7% of national median now
- Investment in business of \$2.2 million in 2013
- Investment in neighborhood \$200 million since 2009; 70 new businesses; 700 jobs created
- 210 employees and 170 FTE's in 2013; growth of 40% since 2010



Summary:

Compensation and Benefits

- Periodic evaluation of market rate for wages to ensure competitiveness
- Training and education for employees – 50% increase in budget since 2012
- Comprehensive wellness program – fitness, preventative care, health education
- Initiatives in safety to reduce recordable incident rate



Summary:

Appreciative and Engaged Culture

- Appreciative Inquiry – basis for interactions among co-workers
- Employee feedback incorporated into strategic planning
- Employees involved in strategic initiative teams
- Opportunities for internal advancement



Summary:

Philanthropy

- Goal of 1% of sales to be donated to regional philanthropic activity
- Staff participation in paid volunteer events
- Green Tour service projects – coordinated volunteer activity in 11 cities



Summary:

Strategic Planning

- Cycle based in concepts of Appreciative Inquiry
- Collect input from many stakeholders, particularly employees
- Put structures and staff in place to achieve goals outlined in process

- 4D Process:
 - Discover
 - Dream
 - Design
 - Deliver



Summary:

Product Quality

- Commitment to quality since founding
- Quality control measures validated through taste panels and in market
- New products introduced in our brewpub to validate quality before production



Summary:

Operational Excellence

- Goal of continuous improvement in manufacturing environment
- Consistent communication meetings
- Analysis of equipment efficiency to solve root cause issues
- Managing supply and demand
- Improving maintenance response times and scheduling preventative maintenance
- Consistent organization of brewery



Summary:

Customer Relations

- Strive to provide consistently excellent experience in products, events, and brewpub dining
- Increasing presence of “brand ambassadors” in market
- High touch with consumers – 100,000 social media followers and fan photo sites
- Improving delivery to distributors – 95% on time deliveries to distributors in 2013



Summary:

Contacts

Thanks!

Saul Kliorys
Sustainability Manager
saulk@greatlakesbrewing.com
216-325-0232



Summary:



2013 SUSTAINABILITY REPORT

Navigating the Craft Climate, with Respect *for* our Climate



**GREAT LAKES BREWING COMPANY
2013 SUSTAINABILITY REPORT**
Navigating the Craft Climate,
with Respect *for* our Climate



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CONCLUSION & CONTACTS



Letter from the Owners Spring, 2014

To All of Our Stakeholders,

In this, our fourth Sustainability Report, we explore the theme of navigation, an apt theme considering our focus on the increasingly crowded craft brewing space and our interest in water quality and conservation. We are pleased to report that our ship is stable and sailing smoothly – not too close to the muddy banks that have covered our previous routes, nor too caught up in the currents created by other vessels or headwinds.

In the economic section of our 2012 Sustainability Report, we highlighted how governance, a central part of financial sustainability reporting, was slated for increased focus. This resulted in improved management reporting, board functionality, the hiring of a COO to manage Brewery operations, and a commitment to refresh our 2011 strategic plan, including a new succession planning component. As to the brewing business itself, our growth of over 20% by volume surpassed the 14.5% growth of craft nationally, and we are most pleased at the balanced nature of it: the core brands of our portfolio contributed to 48% of the growth and our ever-popular seasonal brands contributed 52%. We believe such a balance is achieved by responding not only to our fans' wishes for a diverse selection of flavorful brews, but also to our distributor and retail customers who know that reliable service is also a critical component of a fruitful partnership.

Socially, our metrics about how we are performing with our co-workers have improved again, allowing us to repeat as a Best Workplace in Cleveland's Plain Dealer, and to earn that distinction for the first time from the industry group Northcoast 99. For the first year, we gave out employee recognition awards, a tradition we expect to continue, and created new benefits for various lengths of service. We added 35 employees, including 25 in newly created positions, bringing our total employee count to 210. Our Philanthropic/Community Involvement team took on new energy with the introduction of a new paid volunteer program for staff, and a matching program for staff charitable contributions.

Environmentally, we've again improved efficiencies in water and energy usage, as well as in waste reduction. Though we have not measured our carbon footprint in accordance with many sustainability guidelines, we know our company's climate impacts are mitigated through these improvements. Additionally, recognizing the total systems perspective inherent to sustainability, we started a Responsible Purchasing Program to review the impacts of our supply chain. Going forward, we will seek to exchange best practices and success stories with our main vendors, and to expand our reach to include other stakeholders within this total systems approach. If we and other stakeholders, including our government, were to adopt such an approach, we may well avoid some of dramatic changes to our world outlined in 2052–A Global Forecast for the Next Forty Years, (Jorgen Randers) the update of the influential book from 1972, The Limits to Growth. There's still time, but not much!

As the celebrations for 25 years of brewing drew to a close in the fall of 2013, we looked back with gratitude on all that we have created. With the ship sailing smoothly, we are now engaging more of our co-workers to help accurately ascertain our position and look forward to planning and following a route that will be beneficial to all.

Sincerely,

Patrick F. Conway

Owner

Daniel J. Conway

Owner



INTRODUCTION

Company Profile



Market Avenue Storefront -
our home since 1988

Over 25 years, Great Lakes Brewing Company has grown from a small-batch Brewpub in Cleveland's Ohio City neighborhood to a top 20 U.S. craft brewery in the country, and a top 50 overall U.S. brewery, distributing to 13 states and Washington D.C. A pioneer in the American craft brewing movement, for years we have prided ourselves on offering a diverse portfolio of only the freshest, preservative-free beer.

Year-round we distribute five core brands: Dortmund Gold® Lager, Eliot Ness® Amber Lager, Burning River® Pale Ale, Commodore Perry® IPA, and Edmund Fitzgerald® Porter. In 2013 we brewed and bottled nine seasonal beers: Chillwave™ Double IPA, Conway's Irish Ale®, Rye of the Tiger® IPA, Lake Erie Monster™, The Wright Pils®, Oktoberfest, Nosferatu®, Christmas Ale™, and Blackout Stout®. In our Brewpub, we serve nearly 100 rotating "Pub Exclusive" styles, and we continue to experiment with collaborations, barrel-aging, and our weekly "Firkin Thursday" offering.

From the start, we were committed to more than just beer. Our Brewpub has long supported local farmers and artisans, offering visitors high-quality, responsibly sourced menu options. We were among the first to adopt a smoke-free policy, and we have always placed our community first, supporting local businesses and non-profit organizations through patronage and charitable giving. This is all part of our triple-bottom line philosophy that places value on social and environmental sustainability, in addition to our own financial bottom line.



Material Issues



Barrel Wall

In our previous Sustainability Reports, we've discussed our evolution as a company that strives to be socially and environmentally-conscious while operating with strong financial metrics. We now describe the “material issues”: the levers by which we can have the greatest impacts on economy, society, and environment. In this report, we strive to discuss the material issues, to establish a baseline metric by which to evaluate our progress in future years, and in some cases, to establish goals for the areas in which we intend to make improvements.

PRODUCT

Quality
Innovation

EMPLOYEE

Equitable Compensation
Training & Education
Health & Wellness
Appreciative & Engaged Culture
Safety

COMMUNITY

Business Development
Philanthropy
Advocacy for Sustainability
Promoting Responsible Consumption of Alcohol

ENVIRONMENT

Water Management & Stewardship
Energy Management
Waste Management
Responsible Purchasing
Distribution Impacts

BUSINESS

Profitability
Succession & Staff Planning
Distributor & Consumer Relations
Strategic Planning
Business Literacy Among Staff
Operational Excellence



Goals

Consistent with this year's theme of navigation, the 12 goals that we establish here are our attempt to chart our future course. These are audacious targets that, in most cases, cannot be accomplished by the effort of a single individual, and will take our collective efforts to achieve. We'll report on our progress in attaining these goals in the next reporting cycles.



ENVIRONMENTAL

- Reduce water usage on a per-unit basis by 15% by 2017, over 2013 baseline.
- Implement energy efficiency projects from a prioritized list and track total investment and return on utilities projects.
- Provide education to employees to encourage alignment with Cleveland's Climate Action Plan.
- Review environmental profiles of primary suppliers and distributors; facilitate exchange of information and best practices.

SOCIAL

- Maintain company-wide employee retention rate of at least 95% each reporting year.
- Increase annual training hours per employee by 25% by 2017, over 2013 baseline.
- Improve Total Recordable Incident Rate (TRIR) by 20% by 2017, over 2013 baseline.
- Continue to increase the percentage of employees who are paid at or above the market rate through 2017.

ECONOMIC

- Maintain stable and sustainable growth through appropriate expansion of capacity, tactical distribution expansion, and strong financial metrics.
- Improve governance by creating a management and financial succession plan, including expanding Board functions.
- Improve business literacy among our staff as a means to improve decision making.
- Contribute 1% of sales to philanthropic efforts in our distribution footprint in each reporting year through charitable giving, new business development, and paid volunteerism.



ECONOMIC SUSTAINABILITY

Strategic Planning



Tank Farm

Strategic Planning is our means of ensuring not only that work is done right, but that the right work gets done. We look on a three-year horizon to determine which business imperatives must be met and which initiatives we want to put in place to meet our commitments to social and environmental benefit. The process of strategic planning that we follow is the 4D cycle prescribed in Appreciative Inquiry: Discover, Dream, Design, and Deliver (described in detail on page 13). In the Discover phase, we examine our company and collect data and information about areas of strength to build upon in the future. In the Dream phase, we brainstorm the goals that we would like to meet in the coming three years. In the Design phase, we determine which structures, staff, and processes must be put in place to achieve our goals. In the Deliver phase, we set to work and report out on a frequent basis to ensure that we are on track to meet our goals. A successful Deliver phase leads us back to the beginning of the 4D cycle. Our most recent 4D cycle began in January 2011, and by the end of 2013, we were reviewing our progress against the goals established three years prior, while preparing for a new round of Strategic Planning.

Governance & Management Development

Strategic Planning is often cited as a central part of good governance, and the work we did in 2010 and 2011 provided a solid foundation. Incorporating Appreciative Inquiry principles into our work translated into initiatives that have not only been sustained, but enriched. Late in 2013, we recognized enough time had passed for us to refresh that planning work, especially in the dynamic and rapidly evolving realm of craft beer. We identified management succession as an element to add to the Good Governance need on our overall strategic platform, building on some of the financial succession and estate planning we had already begun. As we investigated best practices in management succession, we recognized it was a continuous process. Late in 2013, we committed to this process, starting with an assessment of management, the results of which will be evaluated within the context of what the refreshed strategic plan is challenging the Company to achieve.



Throughout this process, information will be communicated transparently, another best practice of Good Governance. Lastly, this work will include an articulation of how the Company’s Board of Directors will expand its function and how management will be best structured to work with the Board.

Profitability & Business Literacy

As the Company refines its Strategic Plan, its Board of Directors, management, and co-workers will be responsible for executing it. One of our main goals is to develop a greater financial literacy among our staff so that they are able to contribute to the delivery of the plan. In addition to conventional financial communication, we want to stress a more sustainable financial literacy that incorporates “externalities”, or costs to stakeholders not currently captured within Generally Accepted Accounting Principles (GAAP). Strategic initiatives will be reviewed not only through a financial lens, but also considering social and environmental impact, whether or not these costs are captured in the Company’s financial statements.

Product Quality



Hops from Ohio City Farm

Our commitment to quality starts with purchasing the finest ingredients available, and continues far beyond the bottling line. Our brewers and quality control team conduct daily taste panels, in which our beers are sampled and evaluated. Panelists taste for off-flavors to ensure that only exceptional beer is bottled and kegged, and to better inform the recommended shelf-life of each of our products.

We stamp all of our bottles with a unique code and “Enjoy By” date. The code helps us identify each beer’s batch so we can trace less-than-exceptional products back to the source. We purchase out-of-date products from our accounts, and our QC team makes frequent visits to our retailers to monitor product rotation, line cleaning, and serving techniques. We view our retailers as partners with a shared commitment to providing fresh and flavorful products to our customers.

NEW PRODUCTS

In addition to our five Year-Round Brands and nine Seasonal brands, our Brewpub offers nearly 100 “Pub Exclusive” beers



that rotate seasonally. Our Brewpub's 7 barrel system allows our brewers to experiment with new styles and obtain customer feedback on a smaller scale. In 2013, we added Rye of the Tiger IPA to our Seasonal lineup, based on its previous success as a Pub Exclusive. Several of our Pub Exclusive offerings are kegged and distributed as small-batch "one-offs" that are sold throughout our distribution footprint.

In 2013 we introduced three new seasonal brands: Chillwave™ Double IPA, Rye of the Tiger® IPA, and Silver & Gold IPL™, our Brewery's 25th anniversary beer. We also collaborated with Fulton Brewing of Minnesota, Deschutes Brewery of Bend, Oregon, and Cellar Rats Brewery of Madison, Ohio to release limited-edition beers. We continued our work with the Oriental Institute at the University of Chicago to produce an authentic Sumerian-style beer, brewed using only rudimentary equipment. The beer debuted at educational events in Cleveland and Chicago.



Fatty Wagon

WASTE TO PRODUCT INITIATIVES

A second type of innovation is in our waste-to-product initiatives. We've developed a series of demonstrational projects – a Fatty Wagon shuttle run on waste vegetable oil, spent grain used as soil amendment on our urban farms, and low-fill beers used to make ice cream – to show that so-called "waste" has an economic benefit. Though still in the beginning stages of our Responsible Purchasing initiative, we have begun to research additional products that can be made from our waste products and sold through our Gift Shop, consistent with commitments to quality and value (outlined in greater detail on page 16).



Ohio City Farm

FOOD & FARMING

One of the first areas we were able to have broad success was in the purchase of local foods and in establishing two urban farms – Pint Size Farm (2008) and Ohio City Farm (2010) – to support our Brewpub's needs. Our purchasing needs from these two farms support about three full-time equivalent farmers, an important point to us as the median age of farmers in the US continues to rise, farms consolidate, and the number of farmers declines. Since 2007, our local foods purchases, both from small family farms in Northeast Ohio, as well as our own urban farms, have averaged 30% of total food purchases for our restaurant. Over that same period, the \$1.2 million we spent on local foods was money retained in the local economy and delivered



directly to the farmer, not to food distributors. In the future, both through local purchasing as well as our commitments in philanthropy, we look for ways to support emerging local foods entrepreneurs and the local food economy.

Operational Excellence



Beers on the Bottling Line

As our business has grown from 1,000 barrels of a handful of styles sold in 1988, to the 140,000 barrels of 14 packaged styles sold in nearly 50 SKU's in 2013, the necessity of closely managing the production and delivery of our beer to market has grown as well. In 2011, we began a Lean Manufacturing initiative to bring our process into control by improving the availability of our equipment, producing to schedule, managing inventory levels, improving maintenance response times, delivering to wholesalers in full and on time, rearranging workspaces for optimal flow, and improving communication at all levels. Currently, four standing workgroups meet on a monthly or twice monthly basis to help drive these initiatives. One of our main improvements in 2013 was the addition of twice daily, 15-minute communication meetings to ensure that the priorities for keeping our Brewery operations in control are addressed and well understood by all departments and the necessary staff persons.

Customer Relations

CONSUMER

We strive to provide a consistently exceptional experience for our customers. Beyond our commitment to freshness and quality, we value customer interaction and feedback. We hire sales representatives in each of our markets, and our growing staff of Brand Ambassadors serves to educate and share our message with consumers at a grassroots level. In each market, our sales representatives are able to dedicate dollars to community partnerships and sponsorships that serve to enrich and improve their region. We host and sponsor educational events wherever our beer is sold, including beer dinners and pairings, history-based events like our Sumerian Beer project and our tribute to the crew of the Edmund Fitzgerald, and the annual Burning River Fest.

In 2012 we launched our fan photo site, FriendsofGLBC.com, where customers are rewarded for posting creative photos with



GLBC Photo App Icon



our products. Each week we send merchandise to fans, and our prizes change seasonally in conjunction with our Sales and Marketing driven programs. Our strong online presence allows us to interact one-on-one with our consumers, and to provide real-time support and feedback.



GLBC Beer Truck

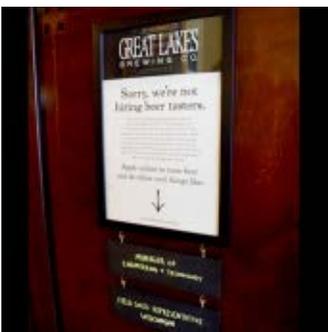
DISTRIBUTOR

An area of focus in Operational Excellence has been to provide excellent service to our distributors. Because our product is perishable, one of our goals is to provide distributors with adequate stock to service their own customers, while ensuring that the shelf life of their inventory is as long as possible without sacrificing freshness. To this end, we have improved our visibility into our distributors' inventory levels and our own inventory levels, attempted to stabilize these inventories, and scheduled production based upon these levels and open orders. This allows us to package our beer just in time to send to distributors with the maximum number of days left to sell it. A second goal in this area, to ship orders complete and on time, was developed to make sure we are meeting our commitments to our distributors. To assess our baseline service levels - which we intend to improve annually - we developed delivery performance metrics. In 2013, we shipped 95% of units on time to distributors and 81% of orders complete and on time.

SOCIAL SUSTAINABILITY

Business Development & Job Creation

One of our company's primary contributions to our Ohio City neighborhood and the city of Cleveland is economic development. Providing stable employment and economic development in our neighborhood was significant in and of itself. Expanding employment opportunities in our neighborhood, ensuring that compensation and advancement opportunities are commensurate with work performed, and investing in our neighborhood continue to be important impacts of our business.



Hiring Poster

INVESTMENT IN OHIO CITY

In our first Sustainability Report, we discussed how in 1990, the median income in our neighborhood was 40% lower than the national median. Continued investment in Ohio City has raised median incomes to the national average. According to 2009 US



Census data, the median income of our neighborhood is within 7% of the national median. Our own investment in our company in 2013 was \$2,135,000. Ohio City is a neighborhood on the rise, with over \$200 million in investment, 70 new businesses created, and 700 jobs created since 2009.



Ramon's 25th Anniversary Party

JOB CREATION

We ended 2013 with 210 total employees and 170 full time equivalent employees (FTE's). We added 25 employees to our workforce in 2013 and our workforce has grown by over 40% since 2010. In addition to growing our workforce, we've provided opportunities for our own top performing employees to advance within the company. Last year, we promoted 31 employees to positions of added responsibility. Our company-wide retention rate improved from excellent to exceptional: from 82% in 2011, to 88% in 2012, to 96% in 2013. Our average tenure is 4 years and last year employee Ramon Feliciano celebrated his 25th anniversary along with the Company.

Compensation & Benefits

Training & Education

In 2013 we increased our training budget of \$460 per Full-Time Employee (FTE), a 50% increase over 2012's budget. This brought average total training hours per FTE to 20. Training and enrichment opportunities are available to all employees. When applicable, food and alcohol safety, sensory training, Cicerone certification, and software training are available.

Health & Wellness

We offer a comprehensive wellness program through Vitality. The program is well-rounded and sets customized goals for individuals to work toward, while encouraging staff to participate in a wide variety of fitness, preventative care, healthy living, and educational activities. As a participation incentive, employees earn "bucks" which can be used to purchase items from an online mall.

In 2013 we reached 63% average participation rate, a level not typically achieved by newcomers to the Vitality program. We sponsor monthly wellness challenges, both individual and team-oriented, and host an annual spring health fare. Staff on all



shifts enjoy a monthly “healthy snack day.”

A no-cost employee assistance program is offered through ease@work. Through this benefit, employees can see a counselor for an issue or concern that may arise for up to three sessions at no cost. Our partnership with ease@work also gives employees access to legal advice, financial planning advice, dependent care resources, and smoking cessation assistance. Online training and professional development courses are available to staff through the ease@work website.

Safety

Last year marked a renewed focus on safety. As our growing sales orders require our employees and equipment to be ever more productive, we want to ensure that all of our employees complete their work with the least risk of injury. Our company-wide Total Recordable Injury Rate (TRIR), which is a measure of recordable incidents per 100 employee-years, was 2.95 in 2013, and our three-year average was 2.99, both below the industry averages for manufacturing of 7.3 and full-service restaurants of 4.3. New initiatives in 2013 include a review of Brewery tour routes to make sure our guests are safe while on site, a review of personal protective equipment (safety shoes, eyewear and hearing protection) needed in various locations in the Brewery, appropriate safety precautions and equipment around lasers, development of an employee safety handbook, and development of a procedure for employees to make safety suggestions anonymously and at no risk to themselves or their co-workers. The safety initiative is led by a cross-functional group of over a dozen active employees.

Appreciative & Engaged Culture

APPRECIATIVE INQUIRY

Appreciative Inquiry (AI) is a framework for creating positive change and culture, which was developed at Case Western Reserve University by David Cooperrider. From our founding, our owners focused on developing a positive and inclusive work environment. As we’ve grown to a company of over 200 employees, we’ve found that AI provides a common language for us to describe and develop this positive culture. As mentioned above, one AI technique is the 4D method of strategic planning. We have used this technique for company-



Employee Recognition
or “Cheers” Board



wide strategic planning as well as for narrower focus areas, for example redeveloping our Brewpub experience or Gift Shop merchandise. Another AI technique is the one-on-one interview, in which individuals are able to discuss their own proudest achievements or ideal future states. The results of these interviews help build a common, positive narrative about the company, inspire us to drive towards a common mission, and inform decision making at higher levels. More informally, when we do need to problem solve, we ask our co-workers to look at existing problems from an “appreciative” perspective, meaning that we focus on resolutions and improvements, not personal shortcomings or faults. Through these techniques, we strive to build a culture where employees’ voices are heard and they are encouraged to make their greatest contribution to the company.



Employee Suggestions from Staff Summit

EMPLOYEE ENGAGEMENT

As noted above, when filling open positions, we often look within our company for individuals who have demonstrated ability and skill and give them the opportunity for advancement. The other features of our approach to our workforce described above – fair compensation, training and education, and health and wellness – are all in place with the goal of having a productive, engaged workforce. One of the best ways for employees to get involved in the company’s work is to contribute to the strategic goal teams. 16 standing, cross-functional groups drive our six strategic initiatives. The teams are populated first with the decision makers and employees with responsibility for driving those initiatives, and then membership in the group is often opened up to other individuals who have ability, skill, and interest in helping to drive those initiatives. Through the process of chartering these teams, we’ve learned a lot about the ideal team size, meeting frequency, structure, agenda, and habits of a successful team. Through several evolutions of these teams, we’re getting much better at making sure employees have the opportunity to make a contribution and that teams remain active and drive results that materially contribute to the company’s goals.



Philanthropy

We formed a Philanthropic and Community Investment committee in 2011, when we established a goal to contribute 1% of our sales to philanthropic causes. Since then, we have devoted one-and-a-half staff persons to managing that budget, vetting potential recipients of funds, and establishing guidelines for our giving. In addition to supporting arts and cultural and environmental non-profits through traditional giving and in-kind gifts and services, we have committed to helping spur new business development in Cleveland. As our own company's history has demonstrated, business growth creates jobs and prosperity in our communities. Our baseline giving in 2010 was 57% of the goal we established. In 2013, we reached 73% of our target giving, which represents a reasonable increase in terms of goal attainment, but a significant increase of 137% in terms of total contributions made.

ENVIRONMENT

Energy Management



Bottle Labeler

The environmental impacts we can most directly mitigate are related to our utilities usage. We take an active approach to managing our utilities usage, to ensure that we are using as little energy as possible, while maintaining our quality standards. We use a standard Lean approach to managing utilities: keeping metrics, analyzing and costing out opportunities, and tracking improvement. A preventive maintenance program also keeps our equipment operating at its maximum efficiency. Our electric utility, Cleveland Public Power, provides energy consultants to us at no cost to further analyze opportunities in energy efficiency and provide rebates for investments we make.

Our electrical usage for 2013 was 14.8 kWh per barrel brewed. That figure represents an improvement of 8.0% per year over the 2009 baseline. Our electric usage is on par with the benchmark for breweries of a comparable size. Our natural gas usage in 2013 was 0.18 Mcf per barrel brewed. That represents an improvement of 6.5% per year over the 2009 baseline. Our natural gas usage continues to be about 20% higher than the benchmark for breweries of similar size. For 2014, we have slated controls for our boiler system to ensure that it is operating at its peak efficiency.



Our 12-panel solar thermal array offset 124 Mcf of gas in 2013, the equivalent of an average American household. The installation, completed in 2009, preheats incoming city water for the domestic hot water system in our Brewpub.

Water Management & Advocacy



Burning River Fest

Our company is located on the shores of Lake Erie, part of the freshwater system that accounts for 80% of the nation's freshwater and 20% of the world's freshwater. Water is the primary ingredient in our product and the inspiration for our company's name. Increasingly, it is in our financial interest to reduce our water consumption, as rising rates from the utilities have for the first time made water and wastewater costs more than 50% of our total utility expense in 2013. In addition, we are advocates of clean water, as it is one of the very few basic necessities all humans share, and because with each passing year, there is growing pressure on this constrained resource.

In 2013, we consumed 5.8 barrels of water per barrel brewed. That represents an improvement of 5.5% per year over the 2009 baseline. As part of our Lean initiative, a cross-functional team dedicated to zero waste reviews water usage data to propose improvement projects.

In 2007, our company founded the Burning River Foundation to be the recipient of funds generated at the annual Great Lakes Burning River Fest®. Three individuals represent our company on the Foundation's board, which is now composed of a majority of non-GLBC members. To date the Foundation has raised and made grants of over \$350,000 to groups working in water conservation and education.

Responsible Purchasing

A new initiative in 2013 was the writing of a Responsible Purchasing Policy. As life cycle analyses (LCA's) by other sustainably-minded craft brewers have shown, the vast majority (80% or more) of carbon emissions related to our products are in the production of raw materials and their distribution. Being a business that values environmental conservation, we want to partner with businesses that share that ideal. In addition, we seek to partner with businesses that support human rights, local sourcing and community building.



During the early stages of this initiative we are simply seeking to understand our current suppliers' practices with respect to these areas and to share our own best practices with them. We have networked mainly with suppliers of point of sale material and merchandise sold through our gift shop and website. One simple success story was in sourcing an organic t-shirt to replace a commodity t-shirt used by our Sales team in their promotions.

The new t-shirt is a higher quality, more durable, and more comfortable product, but one which carries a higher cost of procurement. Because we are prioritizing quality over cost, we - and our customers, we hope - are becoming more conscious consumers.

In 2014, we will engage the primary suppliers of the raw materials we use in brewing, seeking to understand their practices and to share our own success stories.

Waste Management



Mitchell's Christmas Ale
Ginger Snap Ice Cream

Our company has been successful both in traditional waste diversion efforts and in inspiring our consumers to reconsider the concept of waste. In our Brewery, the main byproduct is spent brewers grain, which is used primarily as dairy feed, as is the industry standard practice, but additionally as feed on small family farms for products served in our Brewpub, compost on urban farms, and a number of other demonstrational projects. Traditional recycling efforts divert cardboard, pallet wrap and bands, glass, paper, and scrap metal from landfill. In good markets, the revenues generated from recycling efforts often more than offset the cost of waste hauling. In the future, we look to divert spent yeast from our waste stream, both to save on wastewater costs, as well as to be incorporated into a product such as livestock feed. Our waste-to-product initiatives, outlined above and in previous reports, seek to educate the consumer about the beneficial reuse of waste.



Advocacy for Sustainability

Our company has been recognized as a pioneer of sustainability in Cleveland, but we're pleased to report that among Cleveland businesses, we are not the only advocates of sustainability. We're delighted that many in the craft brewing industry also share an interest in responsible and sustainable business. In the first years that we applied the lens of sustainability to our business, we learned from many experts and organizations in that field, notable among them Gunter Pauli and the Zero Emissions Research Institute, Holly Harlan, founder of Entrepreneurs for Sustainability, Woody Tasch of Investors Circle and Slow Money, and David Orr of Oberlin College; we read works by Bill McDonough, Janine Benyus and Amory and Hunter Lovins. We recognize that the field is ever-evolving, so we participate in sustainability-focused events at local universities, such as Baldwin Wallace University's Sustainability Symposium and Case Western Reserve University's Inamori Ethics Prize reception. Our goal is to field every single request for information about our sustainability efforts, in an attempt to advance the field.

CONCLUSION & CONTACTS

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Thanks to all who have supported our effort to develop a sustainable business, whether by patronizing our Brewpub in Cleveland, participating in a networking event in our Tasting Room, sharing a best practice or new idea, taking a tour of our urban farms, picking up a 6-Pack, or reading this Sustainability Report. In this year's edition, we've attempted to chart our future course by establishing goals and objectives that will guide us for the next three years.

We hope that by the time you read future editions of this report, we'll be able to demonstrate tangible progress towards creating a workplace in which employees are safe and valued, understand our business well, and are able to put their skills to work; the business is in a strong financial position and has continued to achieve steady, stable growth; the community is supported through philanthropic efforts; and our impacts on the environment are mitigated through efforts to reduce resource consumption, increase employee education, and foster valuable interaction with our primary business partners.

As always, we hope that our story inspires other businesses, organizations, and individuals to collaborate in creating a sustainable world and we welcome your feedback by e-mail, phone, or over a pint.





COUNSEL'S REPORT

Frank L. Merrill, Bricker & Eckler LLP, Counsel to the OMA
March 12, 2015

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A. ADMINISTRATIVE

1. Rotation of Ohio EPA Inspectors

On September 30, 2014, Director Butler announced that Ohio EPA will be rotating facility inspectors and permit writers to provide a more uniform approach to inspections and to enhance customer service. According to Bob Hodanbosi, DAPC Chief, the purpose of rotating staff is to make sure Ohio EPA is doing its job in a fair and responsible way and to provide the regulated community with the best customer service. For DAPC, the inspectors and permit writers will be on a five-year rotation cycle.

OMA had a meeting with Director Butler on October 31, 2014 to discuss this change and its impact on OMA members.

2. 401 Water Quality Certifications (WQCs) for Nationwide Permits (NWP)

On February 3, 2015 Ohio EPA announced a proposed modification to the 401 WQCs for NWPs, which could have a significant impact on industry. Ohio EPA has recently struggled with efforts to regulate and protect primary headwater habitat areas. Ohio EPA's proposal designates certain areas as "high-quality watersheds", which are further subdivided into "catchment" watersheds. Under the proposal, impacts to any stream within a high-quality watershed are not eligible for cover under the WQC for NWPs and applicants will have to process such permits through the more expensive, more time-consuming individual permit process. Ohio EPA has indicated that the 401 WQC NWP proposed modification will be released by March 25, 2015.

3. Universal Waste

OMA representatives have had several meetings with Ohio EPA to discuss the possible expansion of the scope of Ohio's universal waste rule, which is an exception from the hazardous waste rules. OMA had petitioned Ohio EPA approximately two years ago to add paint residue waste to the list of universal waste, as is the practice in Texas. Ohio EPA never formally acted on OMA's request and never responded in writing. OMA representatives and members had a conference call on September 10, 2014 with Pam Allen of Ohio EPA regarding this issue.

On February 15, 2015, at Ohio EPA's request, OMA submitted draft regulatory language for Ohio EPA's review to implement a regulatory change to add paint and paint waste to the designation of universal waste.

4. Ohio EPA Interested Party Review Rules

a. NPDES General Permit Program (OAC Chap. 3745-38)

Draft rules were issued for interested party comment in February 2015. The proposed changes include revisions to definitions and requirements for a general NPDES permit. Definition of "waters of the state" proposed to include clarification that underground waters are included in the definition "regardless of the depth of the strata in which underground water is located", to be consistent with ORC 6111.01. Comments are due by March 11, 2015.

b. Air PTI Rules (OAC Chap. 3745-31)

Draft rules were issued for interested party comment on November 13, 2014, and comment period closed on January 16, 2015. Proposed changes include clarification between an "exemption" and a "permit-by-rule", incorporation of new exemptions (e.g., powder coating lines, diesel fuel storage and dispensing operations, heat treating furnaces, heating units burning used oil with a heat input rating less than 500,000 Btu/hr). Draft rules also include a clarification of types of drainage systems and sedimentation control systems that are acceptable site preparation activity prior to obtaining a PTIO for the source.

5. Ohio EPA Early Stakeholder Outreach Proposals

a. Section 401 WQCs (OAC Chap. 3745-32 and 3745-45)

Ohio EPA is starting over on this rule package which originally was proposed a few years ago. Ohio EPA is accepting comments until March 11, 2015.

b. Sulfur Dioxide Regulations (OAC Chap. 3745-18)

Ohio EPA is conducting early outreach for these rules, which are subject to the five-year rule review. Comments are accepted until March 17, 2015.

B. U.S. EPA ACTIVITIES OF NOTE

1. Ozone Standards

By court order, U.S. EPA had until the end of 2014 to issue a draft ozone rule. In 2008 the Bush Administration set a new ozone limit at 75 ppb, which was more stringent than the previous limit, but weaker than the 60 to 70 ppb limit recommended by U.S. EPA's scientific

advisory panel. On November 26, 2014, U.S. EPA announced its intention to tighten the ozone standard from 75 ppb to within a range of 65 to 70 ppb. NAM estimates that the cost of this regulation will be \$200 billion annually. Interested parties have until March 17, 2015 to submit comments, and the final rule is scheduled to be released by October 1, 2015.

2. U.S. EPA's "Clean Power Plan"

On June 2, 2014, U.S. EPA proposed limits on carbon dioxide emissions from coal-fired power plants. The plan would cut carbon emissions from existing coal-fired power plants by up to 30% by 2030 compared with 2005 levels. Under the proposal, power plants in Ohio would need to achieve a 28% reduction in carbon emissions per megawatt hour of electricity by 2030.

Under the draft rule, the EPA would let states and utilities meet the new standard with different approaches mixing four options including energy efficiency, shifting from coal to natural gas, investing in renewable energy and making power plant upgrades. Other compliance methods could include offering discounts to encourage consumers to shift electricity use to off-peak hours.

The timeline for the rulemaking is as follows:

- U.S. EPA adopts state guidelines – June 2, 2015
- Ohio required to submit plan – July 1, 2016
- Ohio must develop rules to implement the plan – July 1, 2017

On December 1, 2014, Ohio EPA submitted comments on the proposed rules, characterizing the plan as “technically flawed, not legal and unworkable.” Director Butler noted in the comments that:

- “U.S. EPA disregarded specific and detailed concerns from entities responsible for guaranteeing grid stability.”
- “U.S. EPA’s cost analysis is flawed and radically underestimates the projected cost of electricity from this proposal.”

The OMA submitted its own comments on November 21, 2014, noting that:

“U.S. EPA should abandon the current CPP plan, which appears impractical and based on flawed interpretations of the Clean Air Act. Instead the OMA and its members encourage U.S. EPA to reconsider its current plan and outline a more reasonable path forward that supports

Ohio jobs and its economy by allowing all energy sources to play a role in America's energy future.”

3. Regulation of Coal Combustion Residue

On December 19, 2014, U.S. EPA announced its long-awaited decision on the regulation of coal ash. U.S. EPA has decided to regulate coal ash as a “solid waste”, rather than more stringently regulated “hazardous waste”.

4. Reuse of Spent Foundry Sands

On January 8, 2015, U.S. EPA, in conjunction with the U.S. Department of Agriculture (USDA) and the Ohio State University, released a risk assessment concluding that silica-based spent foundry sands from iron, steel and aluminum foundries, when used in certain soil-related applications, are protective of human health and the environment, and yield environmental benefits.

Based on the results of the assessment, the EPA and the USDA support the beneficial use of silica-based spent foundry sands in manufactured soils, soil-less potting media, and as a foundation layer in road construction. EPA's risk assessment of the evaluated uses concluded that they are environmentally appropriate because the constituent concentrations in the sands are below the agency's health and environmental benchmarks.

5. U.S. EPA Method 1631 – Mercury

The U.S. EPA-approved Method 1631 allows for the determination of mercury at a level of 0.5 parts per trillion in wastewater programs. Previous testing methods would only show that mercury levels were “below 220 ppt,” and applicants would simply indicate the mercury was not detected. Based on a 2007 U.S. EPA memo, EPA expects, in general, that all facilities with the potential to discharge mercury will provide with their NPDES permit applications monitoring data for mercury using Method 1631E or another sufficiently sensitive EPA-approved method. Accordingly, EPA strongly recommends that the permitting authority determine that a permit application that lacks effluent data analyzed with a sufficiently sensitive EPA-approved method such as Method 1631E is incomplete unless and until the facility supplements the original application with data analyzed with such a method.

C. JUDICIAL

I. State Cases

1. *Board of Commissioners of Fairfield County v. Nally*

(Ohio Supreme Court, Case No. 2013-1085). This case involves Ohio EPA's use of "total maximum daily load" (TMDL) limits as a basis for a limit in a wastewater discharge permit (commonly referred to as "NPDES permits"). The TMDLs are established by Ohio EPA for stream segments and watersheds and then sent to U.S. EPA for approval under the federal Clean Water Act. There is no public comment period or public input process for the establishment of a TMDL.

Oral argument on the appeal was heard by the Ohio Supreme Court on June 25, 2014. A decision has not yet been issued.

2. State of Ohio ex rel. Jack Morrison, Jr. v. Beck Energy Corp. (Ohio Supreme Court, 2015-Ohio-485, 2/17/15)

On February 17, 2015, in a 4-3 decision, the Ohio Supreme Court recognized the sole and exclusive authority of the Ohio Department of Natural Resources (ODNR), Division of Oil and Gas Resources Management over the regulation of oil and gas well production statewide, albeit in a limited context. The four-justice majority concluded that the five city ordinances in question could not be enforced, because they were not a valid exercise of the municipality's home rule powers. The majority opinion, however, made it very clear that the holding leaves open the question of whether general zoning ordinances (e.g., those under Ohio Revised Code (R.C.) 713.07) can co-exist with a comprehensive regulatory scheme under R.C. Chapter 1509.

3. Oxford Mining Company v. Nally (Franklin County Court of Appeals, 2015-Ohio-182, 1/22/15)

On January 22, 2015, the Tenth District Court of Appeals (Franklin County) ruled in favor of a mining company (Oxford Mining) in a dispute with Ohio EPA on the scoring of wetlands in the company's 401 Water Quality Certification. ERAC had previously affirmed Ohio EPA's determination that two wetlands, proposed to be impacted by Oxford's coal mining activities, were Category 3 wetlands (the highest quality of wetlands). The dispute essentially centered around the use and interpretation of the Ohio Rapid Assessment Method ("ORAM"). Ohio EPA's position was that, based on the ORAM scoring, the wetlands scored as Category 3 wetlands and therefore, were Category 3 wetlands, which could not be impacted without a demonstration of "public need", according to Ohio EPA's rules. Citing from the ORAM manual, Oxford took the position that the ORAM score was only one part of the determination and other factors need to be considered. Because Ohio EPA failed to follow its own ORAM manual, the court reversed ERAC's ruling and sustained Oxford Minings' objection.

The decision also involves the reliability of competing expert witnesses and Ohio EPA's ability to impose reasonable restrictions related to endangered species.

4. *State of Ohio v. Brennco, Inc.* (Allen County Court of Appeals, 2015-Ohio-467, 2/9/15)

This case involved the criminal conviction for the discharge of manure on agricultural fields. The defendant applied hog manure on one of its fields by use of a traveling gun applicator. The manure travelled to a nearby creek and subsequently caused a fish kill in the Auglaize River. Defendant argued that the “discharge” was caused by rainwater runoff and was not from a “point source”, and the activity is exempt from the permitting requirements as “agricultural stormwater discharge”. The appeals court affirmed the lower court’s ruling that the runoff was from a discernible conveyance, i.e., a traveling gun applicator, which is a “point source” and therefore, does not qualify as “agricultural stormwater discharge”.

II. Federal Cases

1. *Sierra Club v. ICG Hazard, LLC* (Sixth Circuit, Case No. 13-5086, 1/27/15).

This case involved the interpretation of the Clean Water Act’s “permit shield defense” to a general stormwater permit. While the CWA’s permit shield defense has been applied to cases involving individual permits, this was a case of first impression for the application of the defense to a general permit.

The case involved the discharge of selenium from a coal mining operation in Kentucky. The general permit required one-time monitoring (a single sample during the five-year life of the permit) for selenium, but included no set limits for selenium discharges. In modifying the scope of its permit, the Company sampled its discharge for selenium, and the result exceeded Kentucky’s “acute” limit for selenium. Subsequent samples detected selenium below the “acute” limit but some samples detected selenium above the “chronic” limit.

As a result of the “acute” discharge of selenium, Sierra Club filed an action in federal court alleging that the company was violating the CWA and SMCRA. In a 2-1 decision, the Court of Appeals affirmed the lower court’s ruling that since the company was operating within the terms and conditions of its general permit, there could be no violation of the CWA by operation of the “permit shield defense”.

2. *PennFuture v. Ultra Resources, Inc.* (U.S. District Court Pa., 2/23/15)

The federal district court rejected environmentalists’ novel suit trying to force an oil and gas company to aggregate its emissions sources, which would have triggered a stricter air permit. The court did, however, rule that “functional interrelatedness” of units may be a factor in deciding whether to aggregate air sources. This is in direct opposition to the Sixth Circuit’s decision in *Summit Petroleum v. EPA*, which ruled that U.S. EPA’s functional interrelatedness

test was not supported by the Clean Air Act. The Summit Petroleum decision prompted U.S. EPA to issue a memorandum to its regional field offices that the Summit Petroleum decision only be applied to the states within the Sixth Circuit (e.g., Ohio, Michigan, Tennessee and Kentucky). In May 2014, the D.C. Circuit Court of Appeals invalidated U.S. EPA's memo because of its unequal treatment of air sources throughout the country.

3. Utility Air Regulatory Group v. EPA (U.S. Supreme Court)

On November 25, 2014, the U.S. Supreme Court indicated that it will hear industries' challenges to U.S. EPA's mercury rule. Industry contends that U.S. EPA did not consider the compliance costs in the regulatory process when adopting the rules for regulating mercury and other hazardous pollutants from coal-fired power plants.

TO: OMA Government Affairs Committee
FROM: Rob Brundrett
RE: Environment Public Policy Report
DATE: March 12, 2015

Overview

The 131st General Assembly was seated in January. The House made several committee changes including dividing the old Agriculture, Environment and Natural Resources Committee. Environmental issues will be handled in both Agricultural and Rural Development Chaired By Brian Hill and Energy and Natural Resources Chaired by Al Landis.

U.S. EPA and its existing source and ozone standards continue to be the most pressing environmental subjects for Ohio moving through the year. The state budget was introduced and contains several Ohio EPA policy issues with differing amounts of impact.

General Assembly News and Legislation

Senate Bill 1 – Great Lakes – Harmful Algae

Senate Bill 1 is the Senate's number one priority bill. The bill originally transferred the administration and enforcement of the Agricultural Pollution Abatement Program from the Department of Natural Resources to the Department of Agriculture, required applicators of fertilizer or manure to comply with specified requirements, created the Office of Harmful Algae Management and Response in the Environmental Protection Agency, established requirements governing dredged material, nutrient loading, phosphorous testing by publicly owned treatment works, and household sewage treatment systems. Before passing the bill, the Senate removed the provisions creating the Office of Harmful Algae. It passed the Senate and had its first hearing on March 11, in the House.

House Bill 61 – Lake Erie Fertilizer – Dredging

House Bill 61 is the House of Representatives option to begin combating the toxic algae blooms that cover the western basin of Lake Erie. The bill generally prohibits the application of fertilizer or manure in Lake Erie's western basin on frozen ground or saturated soil and during certain weather conditions, requires publicly owned treatment works either to monitor monthly total and dissolved phosphorous or to prepare optimization studies that evaluate their ability to reduce phosphorous, and prohibits a person, beginning July 1, 2020, from depositing dredged material in Ohio's portion of Lake Erie and its direct tributaries that resulted from harbor or navigation maintenance activities unless authorized to do so by the director of environmental protection. The bill was voted out of the House the first week of March.

House Bill 64 – State Budget Bill

Ohio EPA's budget does not include any fee increases; however, the agency is asking to extend existing fees for its air, surface water, drinking water and materials and waste management divisions, and to reallocate materials and waste management funding to support its focus on business assistance, compliance assistance and pollution prevention.

The director also made a pitch while presenting testimony for creating the Certified Water Quality Professional program that will allow a prequalified, third party private-sector evaluation and assessment of wetlands and streams for water quality certification and Isolated Wetland Permit applications.

The agency is also asking for the authority to request chemical information that may include confidential trade secret information in the event of an emergency. Ohio EPA emergency response staff responds 24/7, 365 to environmental spills and disasters and coordinates mitigation and cleanup efforts with local, state and federal partners. The proposal allows Ohio EPA to ask for information from companies during an emergency and share that information with others, such as water treatment plant operators who have an immediate public health or safety interest to protect.

House Bill 592 Review

Ohio EPA continues its internal work on a rewrite of the old House Bill 592. While no official bill has been introduced, Director Butler while answering questions testifying on the state budget, mentioned he plans to roll out a smaller package regarding solid waste.

Regulations

Ozone – U.S. EPA

The EPA plans to tighten the National Ambient Air Quality Standards (NAAQS) for ground-level ozone from the current 75 parts per billion (ppb) to between 65 and 70 ppb, or even lower. This will have a major impact on Ohio. A new proposal was released in December.

In 2008, the U.S. EPA lowered the National Ambient Air Quality Standard for ground level ozone to 75 parts per billion (ppb). Now, the agency is proposing to lower the standard to as low as 65 ppb and taking comments to as low as 60 ppb.

An updated study by NAM and the OMA shows that at 65 ppb the entire state of Ohio would be out of attainment and it would be the most expensive regulation ever established.

U.S. EPA 111(d)

In June the U.S. EPA proposed its rules for carbon emissions from the nation's power plants. The rules were proposed under section 111(d) of the Clean Air Act.

The rule proposes a national reduction in power plant carbon emissions of 30% by 2030, from a base year of 2012.

The EPA says it built a formula for state-specific reductions: "EPA analyzed historical data about emissions and the power sector to create a consistent national formula for reductions that reflects the building blocks. The formula applies the building blocks to each state's specific information, yielding a carbon intensity rate for each state."

Those "building blocks" are: making fossil fuel plants more efficient, fuel switching from coal to natural gas, increased use of solar, wind and nuclear power, and reducing electricity demand by increased energy efficiency.

The timetable for implementing these vast rules is aggressive: These rules are to be finalized this summer; the states then have one year to establish their compliance plans; and, the U.S. EPA then has one year to act on the states' plans.

The OMA contributed study for the agency to review and incorporate in their comments. The OMA also submitted comments to U.S. EPA.

Beneficial Use

Last year Ohio EPA released draft permits for foundry sand and alum sludge. Earlier this year U.S. EPA and the Dept. of AG released a risk assessment concluding that silica-based spent foundry sands from iron, steel and aluminum foundries, when used in certain soil-related applications, are protective of human health and the environment, and yield environmental benefits. This could provide the final validation for the foundry industry as they have battled with EPA in the past over the benefits of spent foundry sand.

Ohio EPA also released an Early Stakeholder Outreach document on “co-products” and “by-products” last spring. The overall goal of these would be to eventually compliment a beneficial use system and make it clear certain products are not wastes subject to beneficial use regulation. Ohio EPA continues to allude that they want to include slag in this program. OMA will continue to look for avenues to ensure slag is not included in the final rules.

Universal Waste

At the end of 2012 Ohio EPA solicited comments through the early stakeholder outreach program on the expansion of universal waste in Ohio. The agency wanted to examine whether additional hazardous wastes should be designated as universal wastes and specifically if hazardous waste aerosol cans and spent antifreeze should be designated universal wastes. The OMA submitted initial comments on this topic requesting certain paint and paint related wastes.

The OMA was approached by Ohio EPA to see what sort of backing the expansion of universal waste would have among members. The OMA recently put together a working group to work with Ohio EPA on this topic. The group submitted a document to Ohio EPA last fall and submitted rule language earlier this year.

Water Nutrient Work Group

Ohio EPA has been working on reducing the amount of nutrients that enter Ohio’s waterways. The OMA has two members on the working group Ohio EPA created to review the issue. The group is meeting monthly to determine what is the best way to implement the state’s water nutrient strategy. This group remains focused on the water nutrient implementation process it was created to help implement. Ohio EPA is feeling pressure to act in light of last year’s Toledo incident.

Other Notes

Bottle Bill Amendment

Ohio Attorney General Mike DeWine certified a petition so that the requisite signatures could be solicited for a proposed “bottle bill” amendment to the Ohio Constitution.

The amendment, if it made it to the ballot and passed, would require the General Assembly to enact laws that require a refundable deposit of 5-to-10 cents to be made on certain glass, metal and plastic containers.

Unlike previous so-called bottle bills, where the goal was to encourage recycling and increase reusable feedstock, 80% of the refunded deposits are directed to be used to reduce health and car insurances costs of Ohio residents. There are no specific details of how this would be accomplished.

OMA Signs onto National GHG Advocacy Effort

The U.S. Chamber of Commerce, National Association of Manufacturers, and other key stakeholders have established the Partnership for a Better Energy Future, in response to the Obama administration's greenhouse gas (GHG) regulatory agenda. OMA has signed on as a member of the partnership.

The administration's GHG agenda is just underway and will ultimately extend to nearly every sector of the industrial economy, from refining to manufacturing to agriculture and mining.

The partnership, formally launched last year, aims to mobilize the business community to educate and motivate elected and public officials to address widespread concerns with these forthcoming greenhouse gas rules. Its mission is to ensure the continued availability of reliable and affordable energy for American families and businesses.

Ohio EPA Staff Rotation Changing

The Ohio Environmental Protection Agency recently announced a new policy that would rotate personnel within its districts and divisions. The new policy applies to inspectors and staff.

In a letter to stakeholders, Director Craig Butler said, "We believe staff rotation will enhance the uniformity of our inspections while also providing new perspectives and ideas – greatly improving the effectiveness of our efforts. And while some of our staff will be rotating, management in each division and district should remain the same so you should always have someone familiar with whom to discuss issue if they arise."

The Division of Air Pollution Control has announced that in the permitting area, the permit writer will be responsible for no more than one permit cycle for a five-year period for Title V sources. To improve continuity, the existing permit writer will hand off or assist the new permit writer with the renewal permit.

The OMA and several other groups met with Director Butler and put together some FAQs that the agency is planning on publishing to help companies through any transitions.



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

**Director Craig W. Butler H.B. 64 Testimony
House Finance Subcommittee on Agriculture, Development
and Natural Resources
March 3, 2015**

Good evening, Chairman Thompson, Ranking Member O'Brien and members of the House Finance Subcommittee on Agriculture, Development and Natural Resources committee. I am Craig Butler, Director of Ohio EPA, and I appreciate the opportunity to provide testimony on House Bill 64, Governor Kasich's budget proposal.

Ohio is a much different state today than it was just four years ago. We are a much different and a much *better* state.

The improvements we've seen in the past four years haven't come by accident or from sheer good luck. It's all been due to tough work by a determined governor, like-minded legislators and Ohioans who were ready to see change.

It's clear that the rest of the nation has its eyes on Ohio – as they all want to know how we're doing it. But we're not done by any means. It's understandable that some Ohioans may be ready to pull over to the rest stop to take a well-deserved break, but Governor Kasich believes we need to keep our foot on the accelerator and make an even more determined drive to grow our state.

How does Ohio EPA fit in with this?

As it has been since its creation in 1974, 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 commitments 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 use our voluntary programs and 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 to economic development assistance, the Agency provides \$40 million per year in funding to local governments and organizations through grants for air pollution control, environmental education, diesel school bus retrofits, watershed restoration, and acquires land and conservation easements to protect and improve water

quality. Ohio EPA also supports economic development by awarding \$375 million per year in federal and state funded low-interest loans to local communities for wastewater and drinking water infrastructure projects.

At the end of the day, we believe Ohio EPA is a national leader in protecting human health and the environment, and an asset when assisting companies locate and expand in Ohio. I do and will continue to strive to ensure we maintain this very important balance of using our regulatory tools and our business assistance tools together to help Ohio grow and maintain a healthy environment.

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 issues permits governing installation and operation of pollution sources; provides oversight through inspections and air, water, and ground sampling; monitors and reports on environmental quality; provides compliance assistance and environmental education to industry and the general public; helps businesses prevent pollution; and responds to spills and other emergencies 24/7.

Our proposed budget will reduce our number of full-time equivalents by 27 through attrition. A small but significant reminder that we are watching the state's dollars carefully and adjusting staffing and as needed, not simply adding more staff when new programs come along.

Our budget proposal for fiscal year 2016 is \$183.2 million, an 8.2 percent **decrease** from fiscal year 2015. Funding for fiscal year 2017 would be \$185.9 million, a slight 1.5 percent increase from fiscal year 2016.

\$10.9 million per year of comes from the General Revenue Fund. This \$10.9 million pays for the E-Check auto emissions testing program in seven counties in Northeast Ohio because these counties are not in attainment with federal ozone requirements.

Ohio EPA's budget does not include any fee **increases**. We are asking to only extend existing fees for our air, surface water, drinking water and materials and waste management divisions, and to reallocate materials and waste management funding to support our increased focus on business assistance, compliance assistance and pollution prevention.

Ohio EPA's budget asks for one new fee, but it will support a program that I believe will make us more efficient and save money in the long run. This new program is to develop a "certified water quality professional program," which I will detail later in my testimony this evening.

We are asking to use our drinking water protection fund as state matching funding for federal grants, continue conducting the successful Diesel Emission Reduction Grant program (DERG) and increase spending authority to update the surface water permitting/tracking computer program. Again, these changes will help leverage federal dollars and provide more

funds for drinking water upgrades, as well as supporting the DERG program that is helpful to municipalities and others to reduce harmful diesel emissions from school busses and protect our children's health.

In summary, we are doing everything we can as an agency to take Ohio to the next level and create more pathways and more opportunities for Ohioans to succeed while protecting the environment. I am fully convinced we can be a key positive driver in creating new jobs and strengthening our families and our communities. As the Governor has said, and I concur, a job is the number one way to keep Ohioans out of poverty.

Let me provide you with some specifics on the Certified Water Quality Professional program I previewed earlier. First, in our Division of Surface Water, we are excited to propose a Certified Water Quality Professional program. The "certified water quality professional" program will allow a prequalified, 3rd party private-sector evaluation and assessment of wetlands and streams for water quality certification and Isolated Wetland Permit applications.

This proposal will be mirrored after our successful certified professional provisions of our Voluntary Action Program (VAP) used to clean up blighted properties for reuse. This program may be the first of its kind nationally and is designed to eliminate duplication while making certain we protect our critical wetland and streams while reviewing applications to impact these resources. We believe that this new private certification process will streamline review efforts and reduce the time it takes to issue permits. We also fully believe we have safeguards, such as proposed training and certification of all the new water quality professionals, as well as an auditing program to ensure work is done correctly.

Rest assured, this program has appropriate safeguards to protect our critical wetlands and streams. While we are confident this new program will work to cut the time it may take to receive a permit, we anticipate having critical engagement and auditing of all new "certified water quality professionals" and their work product to ensure they follow the law.

We believe this will work because it has already worked in Ohio. The brownfields VAP serves as a good model as it's proven its effectiveness over the past 18 years. It has provided a streamlined and environmentally sound path to clean up contaminated property and has a proven track record of making sure that this work is done professionally and within the requirements of the law.

Ohio EPA, ODNR and interested parties worked together on a provision dealing with right-to-know reporting for oil and gas producers. Since 2001 oil and gas producers have used ODNR's production reports to meet the federal Right-to-Know chemical inventory provisions. Recently that practice was challenged and it was determined that the reports needed to be updated to capture regulatory changes. Our budget language will provide a mechanism for oil and gas producers to resume use of production reports in 2016 to meet state chemical inventory disclosure requirements while ensuring those reports are statutorily up-to-date and available to emergency response professionals in case of an emergency. This will eliminate a

duplication of effort because the companies will not be required to provide the same information to two government agencies.

Another proposal we have will provide Ohio EPA emergency responders with the authority to request chemical information that may include confidential trade secret information in the event of an emergency. As you likely know, Ohio EPA emergency response staff respond 24/7, 365 to environmental spills and disasters and coordinate mitigation and cleanup efforts with local, state and federal partners to ensure Ohio's environment is protected. This proposal, simply, but very importantly, will allow Ohio EPA to ask for information from companies during an emergency and share that information with others, such as water treatment plant operators who have an immediate public health or safety interest to protect.

The need for this provision came from issues that we dealt with during an oil and gas well pad incident last summer. The language would protect the confidentiality of trade secret information provided to an emergency responder, and extend that confidentiality to others, such as water plant operators, who receive the information for purposes during an emergency. This very important change will provide us the ability to protect public health in the event of an emergency, while also protecting confidential business information.

Governor Kasich has called Lake Erie the crown jewel of Ohio. I agree with him. Since the implementation of the Clean Water Act in 1972 Lake Erie has made a remarkable recovery. Unfortunately, for reasons that are not entirely clear, and as evidenced by recent increases in algal blooms, we appear to be back-sliding. Two provisions in our budget proposal will help us, in addition to those at ODNR and ODA, to continue addressing algal blooms, especially in the Lake Erie watershed.

The first provision would require certain wastewater treatment plants to monitor their discharge for phosphorus and require plants that don't have current phosphorus limits to conduct a study to determine the feasibility of such a limit on their systems. Given the issues with nutrient and phosphorus loading in Ohio's waters, including inland lakes and Lake Erie, it is important to have accurate data on the amount of phosphorus discharged into our waters. This amendment will provide a framework for future targeted efforts and be very valuable when determining how to allocate resources to best address the algae problem.

Dealing with dredge material is another important piece of our budget proposal. While dredging our harbors is vital to Ohio's economy, placing dredged material in Lake Erie worsens the environmental problems in the lake. It is simply not beneficial to place this material back in Lake Erie and I am concerned about the potential impact on water quality of continuing this practice.

In the Cleveland harbor, one of our eight federal navigation channels that must be dredged by the U.S. Army Corps of Engineers to keep commerce moving, the material still contains PCBs and other legacy contaminants. As you have certainly heard recently, Ohio strongly opposes the Army Corps proposal to dispose of this PCB-laden material in Lake Erie.

This material needs to be placed in a landfill to keep it from impacting our drinking water and fisheries.

In Toledo and other harbors, there is concern that the phosphorous and nutrient-laden dredge material can contribute to algal blooms that jeopardize drinking water and potentially impact tourism and fishing. While finding other uses for this material is a huge challenge, there are, or we must find, ways to beneficially reuse this clean material so that it can be a marketable commodity, not a liability. This amendment will all but eliminate the practice of open lake disposal by 2020 and incentivize other options for the dredge materials. With the environmental impacts of dumping this material in the lake evident, it is time to rethink this and find ways to reuse and recycle this material.

We are also proposing a provision that would create a “knowingly” and “purposely” standard for water pollution control violations. Currently, all criminal violations of Ohio’s water pollution laws are misdemeanors, regardless of their severity or the intent of the violator. This is inconsistent with our authorities under other programs and is a needed change.

As evidence these changes are needed we need to look no further than the egregious illegal dumping of brine material into the Mahoning River in Youngstown that occurred throughout 2012. Without the assistance of the U.S. Department of Justice, the individuals responsible for this crime would not have been able to have been criminally charged and convicted as criminals under the Clean Water Act. While this is a positive result and sentencing has begun for individuals involved, it is important this law be updated to ensure Ohio does not have to rely on the federal government to respond to violations that occur within our borders.

We are proposing two provisions that would help improve and protect drinking water. We have found that public drinking water systems are good at identifying new infrastructure needs to support new development projects. But once the pipes are in the ground, they are often forgotten or poorly maintained. We are proposing to ensure the long-term sustainability of public water systems by requiring them to develop and implement an asset management plan. Such a plan will drive system operators to think about how to maintain their systems, and identify and plan to address deficiencies before there are significant public health risks and non-compliance.

Our most recent example of this need comes from Lawrence County in the past few weeks where due to a system failure, hundreds were left without water.

In this not so unique instance, one of two pump stations flooded, causing loss of both pumps in that station. Approximately half of the water system served by that station, including two storage tanks, emptied before one of pumps could be restarted. Because of the system’s inadequate pumping capacity, lack of a backup and a large amount of unaccounted-for water loss (reported to be nearly 70%), it has taken more than a week to fill the system. Because the water system’s lack of a competent operator, coupled with having no staff with technical,

financial or managerial capability, or complete knowledge of the infrastructure components, this was a failure waiting to happen, and it did. Ohio EPA staff, with support of the general manager of the nearby HECLA Water Association, had to operate the system to restore service. Several other nearby water systems also provided support, as did the local and Ohio EMA. This is an all-too-familiar reason why this proposal is needed. Understanding and managing critical water infrastructure is critical. Millions of Ohioans depends on it.

Ohio also has many public water systems owned and operated by private entities, including mobile home parks, homeowners' associations and nursing homes. The provision of drinking water is often considered secondary to the primary business they conduct. The owners of these systems often don't understand the full costs for the operation and maintenance of their water systems. After a period of neglect, the systems break down, resulting in water outages for lengthy periods of time, public health risks and non-compliance.

Current law requires that homeowners associations, when developing a new drinking water system or modifying an existing system, maintain some type of financial assurance to address serious problems that may arise affecting the ability to provide a safe, reliable source of drinking water. Ohio EPA is proposing a similar legislative change that would require manufactured housing communities, apartments and nursing homes that have their own public water systems to also maintain emergency funds to fix major problems. This legislation addresses the financial gap by requiring deficient owners to establish an escrow account and systems, in general, to demonstrate financial assurance.

A recent example of this began in September 2014 at Pineview Estates Mobile Home Park in the Dayton area. The manufactured home park had been sited with a significant deficiency after an inspection identified only one of the two wells were working and the working well was leaking water. Nothing had been done to correct the wells and on December 1, 2014, the only working well failed. This caused the system to depressurize and nearly 500 people were without potable water. The owner was unresponsive and didn't want to address the wells or put money into the system. This caused an extended depressurization and boil advisory while residents had to rely on bottled and hauled water for several days.

Additional changes we are proposing include a technical change in law dealing with air pollution control to fix an over-looked cross reference from earlier legislation; change the definition of lead free to be consistent with federal law; update state law regarding the Water Pollution Control Loan Fund to be consistent with federal law changes; continue the federally required E-Check program in seven northeast Ohio counties; and combine two separate, but similar, advisory councils related to solid waste and recycling.

As you can see, we are committed to working with fewer staff in the next biennium and exploring creative ways to protect the environment while encouraging economic growth. We are looking for opportunities to assist businesses with technical and financial resources without needing statutory changes, and we are doing this by combining our compliance assistance and funding programs into one office to provide a "one stop shop" for communities and businesses

to come for help at Ohio EPA. This effort is just getting started, but through 2016 I will be talking more about how we are building this new free, confidential service program to help Ohio businesses and communities.

As director of Ohio EPA, I share the Governor's vision for jobs growth and new opportunities to find success in our state and at the same time make certain all Ohioans have a safe environment in which to live and work. I appreciate the opportunity to speak with you today and I hope you are as proud as I am of Ohio's progress and vision for a prosperous future. I would be happy to answer any questions you have.



Ohio EPA 2016-17 Biennial Budget

The following items were included in HB 490 from the 130th General Assembly and are included in the budget:

- **Division of Air Pollution Control Technical Change** – This is a technical change to ORC 3704.05 to correct an overlooked cross-reference from earlier legislation.
- **Lead Free Definition** – This change is necessary in order to be consistent with federal law. The federal “Reduction of Lead in Drinking Water Act of 2011” amended a portion of the Safe Drinking Water Act. The amendment will reduce the allowable lead content of plumbing and fixtures from 8% to 0.25%. Ohio EPA’s authority only extends to requirements for public drinking water systems. Other changes related to plumbers and building code were already made by the Department of Commerce and are in place now.
- **Changes to 6111.99 (Water Pollution Control)** – This creates a knowing and purposely standard for violations of ORC 6111.99. Currently, all criminal violations of Ohio’s water pollution laws are misdemeanors, regardless of their severity. This change also allows Ohio EPA to recoup actual response costs if a person is convicted of or pleads guilty to a violation of the Water Pollution Control Law. These changes should be made to ensure Ohio does not have to rely on the federal government to respond to violations that occur in the state.
- **Monitoring of Phosphorus Discharges & Optimization Study**– This proposal will require Ohio EPA to modify existing (and any new) major POTW’s (Publically Owned Treatment Works) NPDES (National Pollutant Discharge Elimination Systems) permits to monitor phosphorus discharges into waters of the state. There will be a staggered schedule to allow POTW’s time to comply. It will also require plants that do not have a current phosphorus discharge limit to conduct a study on the effects such a limit will have on their operations.
- **Banning Open Lake Disposal of Dredge Materials** – Reducing the sediment dumped in Lake Erie will help reduce chemical and nutrient loading, which likely contributes to algal blooms, and will improve water quality and protect fish and wildlife habitats. There are other more environmentally beneficial methods of handling dredge material. The legislative change would require that all dredge material be diverted from open-lake disposal by 2020.
- **Oil and Gas Producers Right-to-Know Reporting** – Ohio EPA, ODNR and interested parties have worked together on this provision. Since 2001 oil and gas producers have used ODNR’s production reports to meet the federal Right-to-Know provisions. Recently that practice was challenged to U.S. EPA and it was determined that the reports needed to be updated to capture regulatory changes. This language will provide a mechanism for oil and gas producers to resume use of production reports in 2016 to meet SERC requirements while ensuring those reports are statutorily up-to-date and available to emergency response professionals. (In 2015 traditional SERC reporting will be needed while ODNR updates the database).

The following items are new initiatives in the 2016-17 Budget:

- **Asset Management** – Ensure the long-term sustainability of public water systems by requiring them to develop and implement an asset management plan. Only public water systems that demonstrate technical, managerial or financial distress will be required to submit an asset management plan for approval. By requiring asset management for public water systems, deficiencies can be addressed before there are significant public health risks and non-compliance.

Ohio EPA 2016-17 Biennial Budget

- **Escrow Account for Deficient Small Privately Owned Water Systems** – Current law requires that homeowners associations, when developing a new drinking water system or modifying an existing system, maintain some type of financial assurance to address serious problems that may arise affecting the ability to provide a safe, reliable source of drinking water. Ohio EPA is proposing a similar legislative change that would require manufactured housing communities, apartments and nursing homes that have their own public water systems to also maintain emergency funds to fix major problems. Negligent owners have caused lengthy interruptions of service and public health risks due to financial inability or unwillingness to make timely repairs. This legislation addresses the financial gap by requiring deficient owners to establish an escrow account and systems, in general, to demonstrate financial assurance.
- **Certified Water Quality Professional** – Increase options for entities seeking permitting through our wetlands (401) unit. This amendment creates a “certified water quality professional” (CWQP) program to allow a prequalified, 3rd party private-sector evaluation and assessment of wetlands and streams for water quality certification and Isolated Wetland Permit applications. This proposal will be mirrored after many of the successful certified professional provisions of the Voluntary Action Program (VAP).
- **Chemical Disclosure** – Provide Ohio EPA emergency responders with the authority to request chemical information that may include confidential trade secret information in the event of an emergency. It will allow Ohio EPA to share that information with others, such as water treatment plant operators downstream who have an immediate public health or safety interest to protect. The language would protect the confidentiality of trade secret information provided to an emergency responder, and extend that confidentiality to others, such as water plant operators, who receive the information for purposes of reacting to a release. This will provide protection for the environment in the event of an emergency, while also protecting confidential business information.
- **WRRDA Updates** – Update state law regarding the Water Pollution Control Loan Fund (WPCLF) to be consistent with federal law changes from 2014. Among the federal changes are an extension of loan repayment terms for counties and municipalities from 20-30 years and updating the user charge system to make it more practical.

Others

- Extend existing fees for our Air, Surface Water, Drinking Water and Materials and Waste Management divisions.
- Reallocate existing Division of Materials and Waste Management funding to support our increased focus on compliance assistance and pollution prevention.
- Combine two separate, but similar, advisory councils related to solid waste and recycling. Achieve efficiencies by combining existing funds for our Materials and Waste Management into one line item while maintaining reporting and tracking of fund uses.
- Continue the federally required E-Check program in seven northeast Ohio counties.
- Allow the use of the drinking water protection fund as state match funding for federal grants.
- Increase spending authority to update the surface water permitting/tracking computer program.
- Continue funding the successful Diesel Emission Reduction Grant program.

EPA Proposes Smog Standards to Safeguard Americans from Air Pollution

Release Date: 11/26/2014

Contact Information: Enesta Jones, Jones.enesta@epa.gov, 202-564-7873, 202-564-4355; En español: Lina Younes, younes.lina@epa.gov, 202-564-9924, 202-564-4355

WASHINGTON-- Based on extensive recent scientific evidence about the harmful effects of ground-level ozone, or smog, EPA is proposing to strengthen air quality standards to within a range of 65 to 70 parts per billion (ppb) to better protect Americans' health and the environment, while taking comment on a level as low as 60 ppb. The Clean Air Act requires EPA to review the standards every five years by following a set of open, transparent steps and considering the advice of a panel of independent experts. EPA last updated these standards in 2008, setting them at 75 ppb.

"Bringing ozone pollution standards in line with the latest science will clean up our air, improve access to crucial air quality information, and protect those most at-risk. It empowers the American people with updated air quality information to protect our loved ones - because whether we work or play outdoors - we deserve to know the air we breathe is safe," said EPA Administrator Gina McCarthy. "Fulfilling the promise of the Clean Air Act has always been EPA's responsibility. Our health protections have endured because they're engineered to evolve, so that's why we're using the latest science to update air quality standards - to fulfill the law's promise, and defend each and every person's right to clean air."

EPA scientists examined numerous scientific studies in its most recent review of the ozone standards, including more than 1,000 new studies published since the last update. Studies indicate that exposure to ozone at levels below 75 ppb -- the level of the current standard -- can pose serious threats to public health, harm the respiratory system, cause or aggravate asthma and other lung diseases, and is linked to premature death from respiratory and cardiovascular causes. Ground-level ozone forms in the atmosphere when emissions of nitrogen oxides and volatile organic compounds "cook" in the sun from sources like cars, trucks, buses, industries, power plants and certain fumes from fuels, solvents and paints. People most at risk from breathing air containing ozone include people with asthma, children, older adults, and those who are active or work outside. Stronger ozone standards will also provide an added measure of protection for low income and minority families who are more likely to suffer from asthma or to live in communities that are overburdened by pollution. Nationally, 1 in 10 children has been diagnosed with asthma.

According to EPA's analysis, strengthening the standard to a range of 65 to 70 ppb will provide significantly better protection for children, preventing from 320,000 to 960,000 asthma attacks and from 330,000 to 1 million missed school days. Strengthening the standard to a range of 70 to 65 ppb would better protect both children and adults by preventing more than 710 to 4,300 premature deaths; 1,400 to 4,300 asthma-related emergency room visits; and 65,000 to 180,000 missed workdays.

EPA estimates that the benefits of meeting the proposed standards will significantly outweigh the costs. If the standards are finalized, every dollar we invest to meet them will return up to three dollars in health

benefits. These large health benefits will be gained from avoiding asthma attacks, heart attacks, missed school days and premature deaths, among other health effects valued at \$6.4 to \$13 billion annually in 2025 for a standard of 70 ppb, and \$19 to \$38 billion annually in 2025 for a standard of 65 ppb. Annual costs are estimated at \$3.9 billion in 2025 for a standard of 70 ppb, and \$15 billion for a standard at 65 ppb.

A combination of recently finalized or proposed air pollution rules – including “Tier 3” clean vehicle and fuels standards – will significantly cut smog-forming emissions from industry and transportation, helping states meet the proposed standards. EPA’s analysis of federal programs that reduce air pollution from fuels, vehicles and engines of all sizes, power plants and other industries shows that the vast majority of U.S. counties with monitors would meet the more protective standards by 2025 just with the rules and programs now in place or underway. Local communities, states, and the federal government have made substantial progress in reducing ground-level ozone. Nationally, from 1980 to 2013, average ozone levels have fallen 33 percent. EPA projects that this progress will continue.

The Clean Air Act provides states with time to meet the standards. Depending on the severity of their ozone problem, areas would have between 2020 and 2037 to meet the standards. To ensure that people are alerted when ozone reaches unhealthy levels, EPA is proposing to extend the ozone monitoring season for 33 states. This is particularly important for at-risk groups, including children and people with asthma because it will provide information so families can take steps to protect their health on smoggy days.

The agency is also proposing to strengthen the “secondary” ozone standard to a level within 65 to 70 ppb to protect plants, trees and ecosystems from damaging levels of ground-level ozone. New studies add to the evidence showing that repeated exposure to ozone stunts the growth of trees, damages plants, and reduces crop yield. The proposed level corresponds to levels of seasonal ozone exposure scientists have determined would be more protective.

EPA will seek public comment on the proposal for 90 days following publication in the Federal Register, and the agency plans to hold three public hearings. EPA will issue final ozone standards by [October 1, 2015](#).

To view the proposal: <http://www.epa.gov/glo/>



What Could New Ozone Regulations Cost Ohio?

\$22 Billion Gross State Product Loss from 2017 to 2040

22,914 Lost Jobs or Job Equivalents¹ per Year

\$840 Million in Total Compliance Costs

\$440 Drop in Average Household Consumption per Year

¹ Total job equivalents equal total labor income change divided by the average annual income per job.

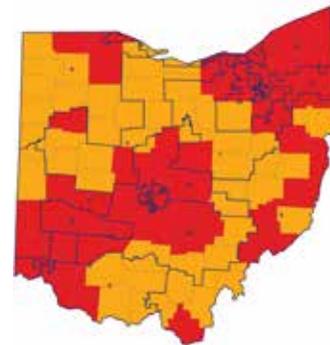
Expensive New Ozone Regulation Will Put the Squeeze on Ohio

The Environmental Protection Agency's (EPA) new ozone regulation could be the most expensive ever issued on the American public, costing the nation \$140 billion annually,² according to a new analysis by NERA Economic Consulting. This regulation will make it harder to get the necessary permits to manufacture goods and build critical infrastructure like roads and highways in Ohio, while increasing the cost of energy for every business and household in the state. The picture gets even worse for the counties in the red and orange in the maps in figure 1. In these areas, manufacturers won't be able to expand without a reduction of emissions or shutdown of operations from other plants in the area. Plans for new plants and expansion at existing plants will be shelved. Federal highway funds could freeze and economic growth could grind to a halt.

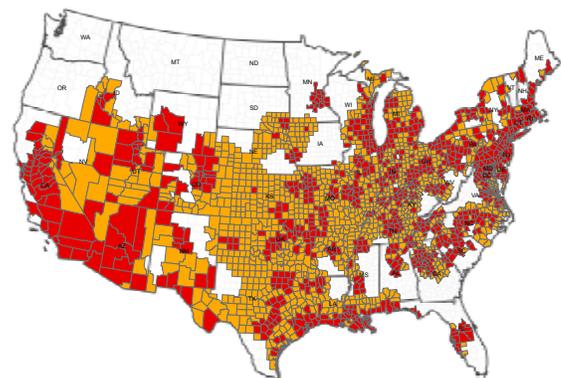
² This estimate only accounts for the costs and related economic impacts of bringing the country into attainment with a 65 ppb ozone standard. It does not account for any additional costs incurred by businesses complying with "maintenance" requirements for attainment areas. This estimate also does not account for any potential curtailment of energy production in nonattainment areas. In NERA's July 2014 report measuring a 60 ppb ozone standard, they found that a significant curtailment of natural gas production in nonattainment areas could further reduce GDP by \$90 billion per year and cost an additional 1.4 million job-equivalents per year.

Figure 1: Projected Nonattainment with a 65 Parts Per Billion (ppb) Ozone Standard

- Areas with monitors
- Unmonitored but likely to exceed 65 ppb



Projected Nonattainment in Ohio (65 ppb)



Projected Nonattainment in the United States (65 ppb)

Source: URS

Ozone Levels: Counties in Ohio

County	Ozone Levels (ppb)
Brown County	81
Butler County	81
Clermont County	81
Hamilton County	81
Warren County	81
Cuyahoga County	80
Delaware County	80
Fairfield County	80
Franklin County	80
Geauga County	80
Hocking County	80
Lake County	80
Licking County	80
Lorain County	80
Madison County	80
Medina County	80
Morrow County	80
Perry County	80
Pickaway County	80
Union County	80
Clinton County	78
Mahoning County	77
Trumbull County	77
Carroll County	76
Greene County	76
Highland County*	76
Miami County	76
Montgomery County	76
Stark County	76
Ashtabula County	75
Clark County	75

Table Key:

Highlighted Counties = Nonattainment at 65ppb

* = Based on Interpolation

Source: URS, July 3, 2014. Based on 3-year period, 2011-2013

Ozone Levels: Counties in Ohio

County	Ozone Levels (ppb)
Tuscarawas County*	75
Champaign County*	74
Adams County*	73
Allen County	73
Auglaize County*	73
Coshocton County*	73
Darke County*	73
Fulton County	73
Holmes County*	73
Knox County	73
Logan County*	73
Lucas County	73
Ottawa County*	73
Ross County*	73
Shelby County*	73
Williams County*	73
Wood County	73
Crawford County*	72
Fayette County	72
Hardin County*	72
Jefferson County	72
Marion County*	72
Mercer County*	72
Preble County	72
Putnam County*	72
Richland County*	72
Ashland County*	71
Columbiana County*	71
Erie County*	71
Hancock County*	71
Henry County*	71

Table Key:

Highlighted Counties = Nonattainment at 65ppb

* = Based on Interpolation

Source: URS, July 3, 2014. Based on 3-year period, 2011-2013

Ozone Levels: Counties in Ohio

County	Ozone Levels (ppb)
Muskingum County*	71
Sandusky County*	71
Seneca County*	71
Wayne County*	71
Wyandot County*	71
Belmont County	70
Defiance County*	70
Harrison County*	70
Huron County*	70
Pike County*	70
Van Wert County*	70
Lawrence County	69
Paulding County*	69
Vinton County*	69
Washington County	69
Athens County*	68
Gallia County*	68
Jackson County*	68
Meigs County*	68
Morgan County*	68
Portage County	68
Scioto County*	68
Summit County	68
Monroe County*	67
Guernsey County*	66
Noble County	66

Table Key:

Highlighted Counties = Nonattainment at 65ppb

* = Based on Interpolation

Source: URS, July 3, 2014. Based on 3-year period, 2011-2013

Revised Ozone Standard						
City	2010-2012 Data	2011-2013 Data	2012-2014 Data	% above standard (2012-2014)		
				at 70 ppb	at 65 ppb	at 60 ppb
Canton	78	76	70	0.0%	7.7%	16.7%
Cleveland	83	80	78	11.4%	20.0%	30.0%
Columbus	82	80	75	7.1%	15.4%	25.0%
Cincinnati	85	81	75	7.1%	15.4%	25.0%
Dayton	78	76	72	2.9%	10.8%	20.0%
Lima	74	73	71	1.4%	9.2%	18.3%
Toledo	77	74	71	1.4%	9.2%	18.3%
Youngstown- Warren	79	76	72	2.9%	10.3%	20.0%



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

December 19, 2014

Environmental Protection Agency
EPA Docket Center (EPA/DC)
Mail code 28221T
Attn: Docket ID No. EPA-HQ-OAR-2013-0602
1200 Pennsylvania Ave. NW.
Washington, DC 20460

RE: Ohio EPA Comments on U.S. EPA's November 4, 2014 "Carbon Pollution Emission Guidelines for Existing Stationary Sources: EGUs in Indian Country and U.S. Territories; Multi-Jurisdictional Partnerships; Proposed Rule" [79 FR 65482]

Dear Administrator Gina McCarthy:

The Ohio Environmental Protection Agency (Ohio EPA) is providing comment on the above referenced U.S. EPA proposed rule regarding emission under Clean Air Act (CAA) Section 111(d) to address greenhouse gas (GHG) emissions from existing fossil fuel-fired electric generating units (EGUs). Predominantly, this proposal addresses similar requirements for Indian Country and U.S. Territories as the June 18, 2014 proposal applicable to states. [79 FR 34960] In addition, this proposal solicits comment on additional considerations regarding areas without affected electric generating units (EGU) that impacts states subject to the June 18, 2014 proposal. Ohio EPA appreciates the opportunity to comment on this proposal.

Ohio EPA is not attempting to comment on specific aspects of this rule that directly affect Indian Country and U.S. Territories or their ability to meet the proposed goals or regulatory requirements. With respect to the concepts behind these goals and requirements, Ohio EPA wishes to reiterate our comments submitted regarding the

June 18, 2014 proposal. Consistent with the statements in the Federal Register notice, Ohio EPA requests U.S. EPA to fully consider all of the Ohio EPA comments submitted into the record as part of the Section 111(d) proposal from June 18, 2014 as also being submitted in response to this proposal.

In this proposal, U.S. EPA is only establishing goals and requirements for a limited number of U.S. Territories (Puerto Rico and Guam) and for four sources located in three Indian Countries. [79 FR 65488] All U.S. Territories and Indian Country are not being regulated under this Section 111(d) proposal because there are not affected EGUs in all of the areas or territories.

In this proposal U.S. EPA identifies issues with Building Blocks 1 and 2 for these areas. For example, some areas have no coal-fired EGUs and therefore, no reductions would be achieved under Building Block 1 from heat rate improvements (HRIs) and/or re-dispatch to combined cycle natural gas (NGCC) sources could not occur. Similarly, some areas have no combined cycle natural gas (NGCC) sources. [79 FR 65490]

Because the areas that will be subjected to this proposal had no utility-scale, non-hydroelectric renewable energy (RE) in 2012, U.S. EPA is proposing multiple options to address RE generation under Building Block 3. [79 FR 65491] The first option follows the methodology of the June 18, 2014 proposal which results in goals with zero RE requirements under Building Block 3. Option two assumes there is RE potential in U.S. Territories. [79 FR 65491] For U.S. Territories, U.S. EPA assumes RE in 2017 to be 0.37% which is consistent with the lowest amount among the 50 states in 2012 (Kentucky). U.S. EPA did not make this same assumption for Indian Country because it would have resulted in a significant portion of the area's electricity demand being met by renewables only. U.S. EPA is also proposing an alternative for Puerto Rico based on a similar methodology from the June 18, 2014 proposal for the alternative RE approach that relies on technical potential within the states. However, U.S. EPA acknowledges they have very limited information on Puerto Rico's technical potential. U.S. EPA did not provide this alternative for Guam because U.S. EPA does not have any technical potential data for Guam.

When using a methodology similar to the June 18, 2014 proposal, U.S. EPA found similar problems when applying Building Block 4 in these areas. [79 FR 65492] There is no projected retail electric sales growth available from the 2012 Annual Energy Outlook (AEO) for U.S. Territories and therefore, is using 0%. In Indian Country, sales of electricity is small compared to the total generation and therefore, application of Building Block 4 yields very little emission reductions. This is forcing U.S. EPA to seek comment on an alternative minimum starting value for demand-side energy efficiency (EE) for Indian Country.

In effect, U.S. EPA has found issues with application of their Clean Power Plan in all of the areas affected by this proposal because U.S. EPA has stepped away from a traditional Section 111(d) plan that regulates emissions in a cost-effective and technically feasible manner directly from individual affected units. As outlined in Ohio

EPA's December 1, 2014 comment submittal, U.S. EPA must completely abandon these proposals and the Clean Power Plan for existing units and develop a traditional and lawful Section 111(d) proposal.

Within this proposal, U.S. EPA addresses areas without affected EGUs, including Vermont and the District of Columbia. Those areas without affected EGUs have expressed interest in participating in multi-jurisdictional (or state) plans. These areas also may consume energy produced elsewhere and could contribute to meeting a multi-jurisdictional (or state) CO2 goal with its RE or EE capabilities. U.S. EPA is requesting methodologies for including the RE and EE potential from these areas in crediting goals in other areas. [79 FR 65496] It is inappropriate for U.S. EPA to propose a rule that clearly does not identify that portions of the proposal will also impact states covered under the June 18, 2014 proposal. Ohio EPA believes any proposal that requests comments on alternatives for any state subject to the June 18, 2014 proposal should have been clearly identified as such.

Some stakeholders have also expressed interest in how to treat RE and EE potential across international boundaries. [79 FR 65496] For example, allowing resources in Canada to be used in meeting an area's goal. Even this proposal, which on the surface does not have any bearing on Ohio, contains concepts that U.S. EPA may alternately choose for states not included within this proposal. This lack of notice and transparent rulemaking would clearly violate the Administrative Procedure Act. Due to the complexity of the undertaking, U.S. EPA cannot propose pieces of a rule without fully explaining the impacts on all affected parties.

We also request that U.S. EPA examine the U.S. Court of Appeals decision in *Electric Power Supply Association v. Federal Energy Regulatory Commission*, 753 F.3d 216 (D.C. Cir. 2014). The Federal Energy Regulatory Commission (FERC) issued Order 745 which establishes uniform compensation levels for suppliers of demand response resources who participate in the "day-ahead and real time energy markets." The order seeks to incentivize retail customers to reduce electricity consumption when economically efficient. The court decided that the order goes too far in encroaching on the states exclusive jurisdiction to regulate the retail market and vacated the order in its entirety. The court found that the rationale used by FERC had "no limiting principle" and without boundaries, FERC authority could encroach on any number of areas inappropriate for FERC regulation. *Id.* at 221. The U.S. EPA Section 111(d) rule proposal seeks to require federal regulation of even a greater portion of, and additional aspects of, the total electricity generation and distribution market. This decision clearly indicates that the federal government, whether through FERC or U.S. EPA, does not have unbounded authority to regulate electric markets that traditionally have been left to the states.

In closing, Ohio EPA requests that U.S. EPA consider these comments along with Ohio EPA's comments on the June 18, 2014 proposal. This proposal cannot be separated from the June 18, 2014 proposal. As a result, U.S. EPA must clearly identify specific

and implied impacts on all parties affected by this proposal and provide ample opportunity for comment prior to promulgation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Craig W. Butler', written in a cursive style.

Craig W. Butler
Director

Cc: Robert Hodanbosi, Chief, Ohio EPA Division of Air Pollution Control

Executive Summary

U.S. EPA proposes to revamp the entire power generation, transmission and distribution system by using Section 111(d) of the Clean Air Act (CAA), a rarely-used section that reserves much authority and flexibility to the states. The U.S. Supreme Court has held that vast regulatory expansions can only stem from clear Congressional authorization. Through its proposed Section 111(d) rulemaking, U.S. EPA is seeking to broadly expand its regulatory reach from emission control to power generation, transmission and distribution control without having the clear authority under the CAA.

As a result, Ohio EPA has reached out extensively to entities that would be regulated under this proposal; other state agencies that will undoubtedly be impacted; state, federal and private organizations with expertise in electricity production and distribution; and numerous other stakeholders, such as environmental organizations. This outreach effort proved essential to understanding the ramifications of this proposal to Ohio and in forming Ohio EPA's comments.

Overall, Ohio EPA has reviewed this proposed regulation and is providing both legal and technical comments. Ohio EPA did not focus on the stated objectives related to climate change, but rather provides a sound detailed analysis on the proposal's cost to consumers, projected impact on power system reliability, as well as identifies omitted information and specifically identifies our concerns regarding the inappropriate use of IPM to predict technical feasibility, reliability and cost-effectiveness. Below are a summary of our findings.

General Comments:

- Since 2005, Ohio has reduced carbon dioxide (CO₂) emissions from 138 million tons to 107 million tons in 2013. Further reductions due to Mercury and Air Toxics Standard (MATS) shut downs could result in as much as an additional 33.8 million tons of CO₂ reductions between 2015 and 2016.
- As a result of U.S. EPA's recent MATS, Ohio will lose roughly 30% of 2012's coal-fired generating capacity. As generating units install control equipment to comply with MATS, this CO₂ proposal layers an even greater degree of uncertainty on the industry.
- U.S. EPA failed to understand and recognize the unique circumstances of Ohio as a deregulated energy marketplace. Within the proposal U.S. EPA compares vertically integrated and deregulated marketplaces, however nowhere does U.S. EPA take these differences into consideration in establishing the best system of emission reduction.

Cost and Reliability:

- Ohio supports diversification of energy sources that responsibly maintain or increase reliability and provides predictable and low costs to consumers. This proposed rule jeopardizes these fundamental benefits to Ohio consumers.

- Currently, it is PJM Interconnection, LLC (PJM), as delegated by the Federal Energy Regulatory Commission (FERC) through the Federal Power Act, whom determines dispatch order by utilizing the least expensive resource first to meet energy demand. Nowhere is U.S. EPA delegated authority for states to usurp the Federal Power Act and mandate generation dispatch based on CO2 emissions rather than cost.
- U.S. EPA disregarded specific and detailed concerns from entities responsible for guaranteeing grid stability. To move forward with a proposed rule without adequately addressing these issues is ill advised. For instance:
 - The analysis includes no state-specific capability assessment for electricity or natural gas generation, transmission or distribution.
 - A third party cost-based model was inappropriately used as the lone justification for demonstrating nationwide power grid stability and security.
 - FERC testified to Congress regarding serious concerns about the impact of this rule on reliability. A proposal of this breadth and impact should rely on FERC, the North American Electric Reliability Corporation (NERC), regional transmission organizations and state Public Utility Commission (PUC) expertise during the early planning and development stage, yet this proposal includes major deficiencies for which these entities have clear authority.
 - One regional transmission organization responsible for dispatching power across multiple states predicts potential “rolling blackouts” and worse, “cascading outages and voltage collapse”.
- Despite a dramatic increase in predicted natural gas usage dedicated to generating electricity, no legitimate analysis of the subsequent impact on natural gas supply and/or prices was conducted.
- In this proposal renewable energy is expected to occupy an ever larger portion of electricity generation. U.S. EPA recognizes the intermittent nature of generation from renewables, yet relies on unproven grid storage technologies to provide quick response backup generation. Reliance on unproven technology, described by the Department of Energy as still in it’s “infancy” will undermine grid reliability.
- NERC completed an Initial Reliability Review of U.S. EPA's proposal. Their concerns include:
 - As directed by the Energy Policy Act of 2005, NERC is directed to conduct periodic assessments of the reliability and adequacy of the bulk power system in North America. U.S. EPA should have consulted, utilized and relied on NERC's knowledge and experience prior to releasing a proposed rule.

- o By not consulting NERC and, instead, explaining that reliability is not a concern because states have "flexibility" in plan development demonstrates a lack of understanding and due diligence on behalf of U.S. EPA.
- o NERC's analysis provides fundamental recommendations for implementing a more timely approach that addresses: resource adequacy and infrastructure deployments; continued assessment of implications by NERC and independent evaluations; coordinated regional and multi-regional evaluation of interdependencies between systems; more accounting for time to plan and build transmission infrastructure; development of a reliability assurance mechanism; assessment and planning for a changing resource mix.
- U.S. EPA's cost analysis is flawed and radically underestimates the projected cost of electricity from this proposal.
 - o Ohio's PUC conducted a state-specific analysis which showed the aggregate total price increase as a result of the Clean Power Plan will be substantial. Compliance with Building Block 2 would cost Ohioans approximately \$2.5 billion (in nominal dollars) more for electricity in 2025 alone.
 - o In a misguided approach to bring costs down, after a notable predicted increase in costs, U.S. EPA relies heavily on renewable energy and energy efficiency development to bring down costs by 2030.
 - o Many Ohio industries depend on affordable power. It is the back bone of Ohio's high quality of life and crucial for business development and expansion. Any increase in electricity and/or natural gas costs is viewed as a threat to their economic viability in Ohio.

Legal:

- Because U.S. EPA has promulgated a Maximum Achievable Control Technology standard under Section 112 for power plants, they are prohibited from regulating CO2 emissions from these same power plants under the plain language of Section 111(d).
- U.S. EPA is limited in Section 111(d) to regulate sources which would be regulated under Section 111(b) if the source had been "new". This proposal inappropriately requires states to exert regulatory authority and impose obligations on "affected entities" which potentially include countless generators and users of energy throughout the state. These "affected entities" would potentially include any renewable energy development, any energy efficiency measures, and industrial users of energy and entities located outside of Ohio.
- U.S. EPA has taken a rarely-used section of the CAA that has always been applied on a source-oriented inside-the-fenceline basis as justification to expand

their regulatory reach and exert authority over the national power generation, transmission and distribution system. U.S. EPA has misinterpreted Congressional silence to imply that Congress would agree to the broad new authority proposed in this rule.

- A companion proposal to regulate Modified or Reconstructed sources under Section 111(b) mandates that sources previously included in a state's Section 111(d) "existing" source plan will be subject to both rules following modifications or reconstruction. This misapplication of the CAA would cause undo confusion and hardships on any source attempting to operate more efficiently.
- The provision in Section 111(d) for U.S. EPA to establish a procedure similar to that provided under Section 110 is only with respect to providing procedures for each state to submit a plan which establishes standards of performance. U.S. EPA cannot expand its authority under Section 111(d) with the wholesale adoption of Section 110 requirements.

Specific Comments on Elements of the Clean Power Plan:

Building Block 1:

- U.S. EPA is mandating a 4 to 6% heat rate improvement for coal-fired power plants through misapplication of a research study (Sargent & Lundy). The use of this study was in direct contradiction to the author's stated purpose and provides an over-simplification of the complexities and variability in coal plant design and function.
- U.S. EPA relies on fundamental flaws in their heat rate improvement justification and feasibility analysis. Specifically:
 - The study incorrectly assumed that heat rate variability beyond ambient temperature and load was under control of the operator.
 - The "presumption" that all heat rate improvements were due to equipment upgrades without any technical basis or situational knowledge.
 - No attempt to recognize that heat rate improvements have already been made at many plants.

These oversights, along with other inadequacies, demonstrate that the best system of emission reduction can only be implemented through unit-specific engineering studies without the burden of federal predetermined conclusions.

- Specifically, application of 4 to 6% heat rate improvement is unrealistic for Ohio. Ohio's coal-fired fleet had an average gross heat rate of 9,788 BTU/kW-h for years 1997 to 2013. Absent this rule, Ohio's post-MATS coal fleet is projected to achieve a gross heat rate of 9,287 BTU/kW-h, representing a 5.4% heat rate improvement. After MATS shutdowns, Ohio's fleet will be extremely efficient and additional reductions will be very costly to achieve from the remaining fleet.

Building Block 2:

- 70% re-dispatch of power generation from coal to natural gas may exert severe strain on Ohio's natural gas distribution and transmission system. No formal capability study was conducted by U.S. EPA to assess the feasibility at the state level for implementing this shift.
- U.S. EPA did not recognize known impediments including designed use of natural gas combined cycle (NGCC) units as load-following versus base load units, and necessary unavoidable costly and time consuming upgrades to the transmission and distribution system.
- U.S. EPA inappropriately justified the feasibility of this capacity increase for every natural gas unit (and some that are not even planned yet) across the state based on isolated units that operate near 70%. Re-dispatch at 70% is described by U.S. EPA in the federal register as possible "not in every individual instance but on average...technically feasible". Indeed, U.S. EPA could only model 64% re-dispatch at the state level. Seventy percent re-dispatch could only be achieved under a regional approach. To determine if re-dispatch is possible and appropriate, a unit-by-unit review is necessary.

Building Blocks 3 and 4:

- As demonstrated by Ohio's existing Renewable Energy Portfolio Standard (RPS), Ohio supports development of renewable energy and energy efficiency programs. However, this new proposal and the associated federalization measures will disincentivize renewable energy and energy efficiency initiatives that states like Ohio have had success implementing at the state level.
- Federalization of renewable energy and energy efficiency is unacceptable. The prospect of U.S. EPA enforcement of all aspects of state plans will create a disincentive to public and private entities already making great strides in renewable energy and energy efficiency development. No entity we had discussions with during our review of this proposal, public or private, communicated their desire for this state-specific activity to be afforded to U.S.EPA.
- States' RPS programs are not uniform. U.S. EPA has provided no indication of how these differing states RPS programs would be incorporated and function under this proposal. States with existing RPS standards may need to adjust their state specific programs to meet U.S. EPA's standards. If not, states will need to duplicate all tracking, measuring, verification and reporting to separately satisfy both regulatory bodies.

Timing:

- U.S. EPA proposes unrealistic timing throughout the proposal. Less than six months is insufficient time to provide comment on a complete overhaul of the

country's power generation, transmission and distribution system. A proposal of this breadth and potential impact should take the form of a multi-year planning and good-faith outreach effort culminating in a proposal that is well researched and attainable. This proposal is none of these.

- For states, developing a comprehensive plan including development of new regulatory and statutory authority, development of a workable state specific plan, and submittal of a plan that meets U.S. EPA's expectations is improbable. To collaborate with other states on a multi-state plan within the time provided is likely unattainable.
- U.S. EPA incorrectly believes heat rate improvement projects at affected EGUs can be implemented and 70% utilization of NGCC units can be achieved by 2020. This is technically unrealistic.
- Ohio compiled several cradle-to-grave timelines of recent efficiency improvement projects at Ohio EGUs. With inclusion of initial planning, engineering, construction and testing, the most optimistic duration is twenty months plus any delays attributable to New Source Review permitting and acquisition of PJM approval. This twenty month timeline was the product of normal, routine, and well established outage schedules via PJM. A second timeline, involving turbine upgrades, required approximately seven years to complete.

Omission of Critical Information:

- This proposal is 129 Federal Register pages in length and references over 1000 pages of guidance documents. U.S. EPA has been unable to respond to fundamental state questions regarding plan feasibility, grid reliability and cost impacts for Ohio and Ohio generating units.
- U.S. EPA omitted numerous documents from the docket that would assist states in understanding their goal development, and impacts including multiple IPM parsed files, heat rate improvement analysis data, details regarding enforceability and evaluation, measurement and validation approvability. In addition, U.S. EPA's recently released NODA excluded data on reformulated state goals, cost analysis, technical analysis and other administrative elements.
- U.S. EPA was unable to provide meaningful guidance on a conversion of their CO2 reduction goals from an emissions rate to mass emission target as requested by Ohio and many other states. Only in mid-November, after multiple requests from states and stakeholders, did U.S. EPA release guidance. To provide an acceptable conversion on a fundamental aspect of the proposal 2-3 weeks before the deadline is problematic. Ohio has commented on this but, simply did not have enough time to analyze the guidance and reconcile it appropriately with the rest of the proposal.

Use of a Flawed Model:

- The feasibility of re-dispatch under this proposal was only possible through the assessment of a “shadow” cost on each ton of CO2 emissions. Only through assessment of an added cost per ton, making increased use of natural gas more affordable than coal over the compliance period, is this proposal possible. U.S. EPA fails to explain where this added revenue stream will be collected, by whom and it's appropriate use.
- Ohio EPA has serious reservations concerning U.S. EPA's over reliance on the IPM model to predict the proposed rule's feasibility, cost to consumers and impact on reliability.
- IPM is a U.S. EPA-developed cost-based model used to determine the least-cost method of meeting energy demand. When inappropriately used as a dispatch model, severe limitations become evident that undermines reliability assessment capabilities. Problems include failure to represent congestion at the local level, failure to properly assess individual units, failure to recognize and account for seasonal variation, lack of detailed transmission and distribution information, inadequate accounting of the intermittent nature of renewable energy generation.
- Ohio EPA identified multiple errors and false assumptions throughout the IPM modeling scenarios which have been identified within this submission including, but not limited to, unrealistic heat rate improvements, overly ambitious renewable energy capacity coming online, significant and potentially unrealistic capacity factors at included coal-fired units, and a notable lack of natural gas expansion in the state.

Health and Climate Effects:

- U.S. EPA provided no scientific evidence of direct health effects of CO2 exposure in either the preamble or the supplementary support documents used to justify the proposal. U.S. EPA justifies enacting this new sweeping expansion of regulatory authority based upon vague links to preventing indirect possible impacts such as intestinal illness resulting from extreme weather impacts. This delegitimizes reasonable efforts to address the consequences of climate change.
- U.S.EPA's attempts to bolster justification and affordability of this proposed rule by identifying health benefits that will be recognized as a result of secondary reductions in criteria pollutants, not CO2. Implementation of current and future ozone, PM 2.5 and SO2 standards, and others, will reduce criteria pollutants in and of themselves, without this proposal.

Conclusion:

Climate change is a global issue and Ohio wants and believes we are already doing our part to address this important issue. However, U.S. EPA's proposal to address climate

change through this Section 111(d) approach is not appropriate. Not only does Ohio strongly believe that U.S. EPA is inappropriately using Section 111(d) to implement this plan, rather than securing authorization from Congress, but the proposal itself is fundamentally flawed in its design and construction and jeopardizes Ohio's ability to provide low-cost, affordable, and reliable power to our citizens.



November 21, 2014

Air and Radiation Docket and Information Center
U.S. Environmental Protection Agency
Mail Code: 2822T
1200 Pennsylvania Ave., NW
Washington DC, 20460

**Re: Carbon Emission Guidelines for Existing Stationary Sources:
Electric Utility Generating Units;
Docket ID No. EPA-HQ-OAR-2013-0602;**

The Ohio Manufacturers' Association (OMA) is hereby providing its written comments to U.S. EPA's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Unit." OMA is dedicated to protecting and growing manufacturing in Ohio, and for more than 100 years, has supported reasonable, necessary, and transparent environmental regulations promoting the health and well-being of Ohio's citizens.

The OMA, as a trade organization representing over 1,400 manufacturers throughout Ohio, appreciates the opportunity to weigh in on the approach set forth by U.S. EPA in its proposed Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, also known as the Clean Power Plan ("CPP"). Access to abundant, affordable, and reliable energy is helping to spur a manufacturing renaissance in Ohio and powering an economic rebound in Ohio. In order to continue its manufacturing growth Ohio's manufacturers need policies that support the continued provision of affordable electricity.

U.S. EPA should abandon the current CPP plan, which appears impractical and based on flawed interpretations of the Clean Air Act. Instead the OMA and its members encourage U.S. EPA to reconsider its current plan and outline a more reasonable path forward that supports Ohio jobs and its economy by allowing all energy sources to play a role in America's energy future.

Consumers of energy, whether large manufacturers or an individual households, benefit most from an all-of-the-above energy strategy. Diversity of energy supply is not only critical in keeping energy costs reasonable, it is essential in ensuring steady and reliable streams of energy to power factories and heat homes. If regulations like CPP force energy options off the table, energy prices will become more volatile, costs will increase, reliability will be threatened and ultimately U.S. firms will be less competitive.

By moving forward with the CPP, U.S. EPA by its own estimates would raise electricity prices between 6% and 7% in 2020 and up to 12% in some locations. An independent analysis shows that the impacts on energy prices could be substantially higher. An analysis by NERA Economic Consulting indicated that average U.S. electricity prices would increase by 12% per year and the total costs of the rule could be between \$366 billion to \$479 billion over a 15 year timeframe.¹

There is a direct correlation between the cost of energy and manufacturing output. A study conducted by Cleveland State University found that an increase in the industrial electricity price of 1% kilowatt-hour is likely, in 99% of cases, to decrease average manufacturing productivity on average, by \$2,527 of annual gross state product per employee. The research indicates that a 1% increase in industrial electricity prices drops manufacturing productivity by 0.13%.² Thus, electricity prices increased by the CPP will have a significant effect on the gross state product of Ohio.

The OMA is concerned that the CPP expands the EPA's 40-year mandate as the preeminent regulator of the environment to become the nation's regulator of energy. The proposed rule dictates not only what types of fuel should be used to generate our nation's electricity, but how and in what quantities end-users should consume it.

The OMA urges the U.S. EPA to reconsider its proposal and proceed with a more reasonable, legal and technically sound plan.

¹ NERA Economic Consulting, Potential Energy Impacts of the EPA Proposed Clean Power Plan, October 2014. Available at: http://www.americaspower.org/sites/default/files/NERA_CPP%20Report_Final_Oct%202014.pdf

² Cleveland State University, Moving Ohio Manufacturing Forward: Competitive Electricity Pricing, October 2014 at ii. Available at: http://www.ohiomfg.com/wp-content/uploads/2014_11_20_CSU_Moving-Ohio-Mnf-Forward_2013.pdf

Reuse of Spent Foundry Sands Yields Environmental Benefits

Release Date: 01/08/2015

Contact Information: Enesta Jones, jones.enesta@epa.gov, 202-564-7873, 202-564-4355

WASHINGTON – The U.S. Environmental Protection Agency (EPA), in conjunction with the U.S. Department of Agriculture (USDA) and the Ohio State University, today released a risk assessment concluding that silica-based spent foundry sands from iron, steel and aluminum foundries, when used in certain soil-related applications, are protective of human health and the environment, and yield environmental benefits.

“There is potential for substantial growth in the recycling of silica-based spent foundry sands,” said Mathy Stanislaus, assistant administrator for EPA’s Office of Solid Waste and Emergency Response. “Our risk assessment concludes that the evaluated reuses are environmentally appropriate. Advancing the environmentally sound, beneficial use of industrial materials, such as spent foundry sands, provides substantial opportunities for addressing climate change and air quality, enhancing state, tribal and local partnerships, reducing costs, and working toward a sustainable future.”

Based on the results of the assessment, the EPA and the USDA support the beneficial use of silica-based spent foundry sands in manufactured soils, soil-less potting media, and as a foundation layer in road construction. EPA’s risk assessment of the evaluated uses concluded that they are environmentally appropriate because the constituent concentrations in the sands are below the agency’s health and environmental benchmarks.

EPA estimates the environmental benefits from using silica-based spent foundry sands in the specific applications studied, at the current use rate, results in the following savings in one year:

- The energy savings equivalent to the annual electricity consumption of 800 homes;
- CO₂ emissions reductions equivalent to removing 840 cars from the road; and,
- Water savings of 7.8 million gallons.

Foundries purchase virgin sand to create metal casting molds and cores. The sand is reused numerous times within the foundry operation itself. However, over time the sands become unusable and are referred to as spent foundry sands. The spent foundry sands are then reused in a number of ways, including as an ingredient in potting soil and as a foundation layer in roadway construction.

The risk assessment results are specific to silica-based spent foundry sands from iron, steel and aluminum foundry operations. Spent foundry sands from leaded and non-leaded brass and bronze foundries, and spent foundry sands containing olivine sand, are not included in this assessment.

The EPA encourages foundries and foundry sand recyclers to consult state regulations to ensure planned uses are consistent with state beneficial use and waste management programs and that the chemical and physical properties of the sand meet applicable state environmental limits, engineering performance criteria, and other state requirements. This report provides states, tribes and other interested parties with key information to support their foundry sand beneficial use decisions.

More information on the risk assessment: <http://epa.gov/epawaste/conserv/imir/foundry/index.htm>



October 30, 2014

To: Craig Butler, Director, Ohio Environmental Protection Agency
From: The Ohio Manufacturers' Association
Re.: **OMA Universal Waste Policy Recommendations**

Introduction

The Ohio Manufacturers' Association (OMA) work group on "Universal Waste" was formed in response to Ohio EPA's early stakeholder outreach document entitled, Universal Waste Regulatory Program Development, dated December 2012. The purpose of the work group was to review relevant information regarding Ohio's universal waste regulatory program and to provide information and expertise surrounding the expansion of the program to include paint and paint-related wastes.

Thank you for the opportunity to submit our positions with respect to the expansion of an Ohio universal waste regulatory program. This document reflects environmental policy guiding principles and recommendations to increase the competitiveness of Ohio's manufacturing economy, and therefore the Ohio economy. The concepts in this document were developed by OMA members in conjunction with staff and OMA environmental counsel.

OMA universal waste work group

The OMA is made up of over 1,400 member companies with strong interest in Ohio's environmental regulatory process. OMA members actively participate with the Agency on matters of importance to the member companies. This work group was comprised of OMA member experts and national subject matter experts commissioned to develop recommendations to Ohio EPA. The work group was comprised of the following members:

- American Coatings Association
- Chrysler Group LLC
- General Motors
- Honda of America Mfg., Inc.
- MTD Products Inc.
- Navistar Inc.
- Ohio Paint Council
- OMA Environmental Counsel, Bricker & Eckler LLP
- PPG Industries
- The Sherwin-Williams Company
- Whirlpool Corporation

OMA Guiding Environmental Principles

Where environmental standards and regulations are concerned, manufacturers have a critical need for the following:

- Clarity, predictability and consistency
- Policies that reflect scientific consensus
- Common sense enforcement
- Careful cost-benefit analyses as part of the policymaking process

Recommendations

Expand Ohio's universal waste regulatory program to include paint and paint-related wastes

Universal wastes are specific hazardous waste streams that a generator can choose to manage in an alternative manner in place of the more complex hazardous waste requirements. Ohio's universal waste rules are intended to promote recycling as well as proper disposal by easing certain regulatory requirements. Ohio currently has four categories of universal waste that may be managed under the program: lamps; suspended or recalled pesticides; mercury-containing devices; and batteries. Ohio EPA has shown a willingness to expand universal waste to cover spent antifreeze and aerosol cans. The OMA strongly encourages Ohio EPA to further expand universal waste to cover paint and paint-related wastes.

According to the American Coatings Association, Ohio is one of the leading states in paint and coatings manufacturing. Paint and coatings manufacturers employ nearly 12,000 Ohioans at more than 1,000 different sites in Ohio. These employees make an average wage of \$52,750.00, ranking third in the nation.

Ohio is also a leader in automobile, heavy truck, consumer appliances, and outdoor power equipment. Each of these industries uses large amounts of paint in their manufacturing processes. These large amounts equal high volumes of hazardous waste being attributed to Ohio manufacturing facilities, which in turn increase the regulatory burdens on these manufacturers. Many paints are considered hazardous due to ignitability; however once dry, paints generally take on characteristics of non-hazardous waste. In 2002, U.S. EPA reviewed paint production wastes and decided not to list these as hazardous since it was determined they do not present substantial hazard to human health and environment.

Types of paint and paint related wastes

The State of Texas expanded its universal waste program to include paint and paint-related wastes in 1997. Included in the expanded program were:

- Used or unused paint
- Spent solvents used in painting
- Personal Protective Equipment (PPE) – including contaminated rags, gloves, and debris resulting from painting operations
- Coating waste paint, overspray, overrun paints, paint filters, paint booth stripping materials, paint sludges from water-wash curtains
- Cleanup residues from spills of paint
- Cleanup materials from painting and paint removal activities
- Other residues from the removal of paint

The OMA work group would suggest that Ohio adopt Texas' list and also add wastes from:

- Paint and paint-related wastes from consumers (i.e. Paint Care program run in other states)
- Retail and wholesale materials (i.e. off-spec and spill cleanup)
- Paint and paint-related wastes from paint manufacturing operations (off-spec, cleanup materials, filter materials)

Advantages of expanding universal waste regulations

Ohio continually finds itself competing against neighboring states to create the best business climate possible to attract new businesses and to allow existing businesses to expand. Ohio is uniquely positioned through history and geography as a place where manufacturing has flourished. Expanding the concept of universal waste would help continue to promote Ohio's competitive advantage as a prime place to base manufacturing activities. If permitted to manage paint and paint-related wastes under the universal waste regulatory program, Ohio would provide the following benefits:

- No manifest required when transporting paint and paint-related wastes
- No state notification (other than first time notification)
- No need to use registered transporter
- Waste does not count toward total hazardous waste generator status
- Waste is exempt from hazardous waste fees
- Waste may be accumulated up to one year (additional time can be granted if necessary to facilitate proper recovery, treatment, or disposal)
- Increase in manufacturer recycling
- Create incentives for new businesses to develop or expand solvent recycling facilities in Ohio

Importantly, these changes would be of great help to manufacturers by reducing cumbersome paperwork and storage requirements, while ensuring that paint-related wastes continue to be handled properly in Ohio. Making this change could reduce the regulatory burden on manufacturers by changing their status from Large Quantity Generator (LQG) to Small Quantity Generator (SQG) or even in some rare cases Conditionally Exempt Small Quantity Generator (CESQG). For example a Navistar truck plant in Texas made this transformation after Texas expanded universal waste to include paint and paint-related wastes. A SQG or CESQG has less burdensome paperwork requirements and more flexibility in storing hazardous waste on site as compared to a LQG. A significant number of manufacturers in Ohio are LQGs simply due to the amount of paint and paint-related waste they manage. Classifying these waste streams as universal waste provides incentives to recycle while relieving burdens of regulatory paperwork requirements.

The addition of paint and paint-related waste to the definition of universal waste also promotes the Agency's mission of protecting the environment. Paint-related waste streams will still be subject to certain rigorous regulations that are applicable to hazardous waste, such as requirements to conduct personnel training, properly manage waste in transportation, and proper use of disposal facilities. The universal waste designation allows generators more operational flexibility, encourages reuse and recycling while still maintaining regulatory requirements necessary for protection of human health and the environment.

Summary

The OMA is encouraged to see that Ohio EPA is re-evaluating its universal waste program to determine whether paint and paint-related wastes should be added to Ohio's list of universal wastes. This is an area where other states have already expanded to take advantage of ways to promote recycling and decrease the costs associated with managing hazardous wastes. The OMA previously met with Ohio EPA in early 2012 to discuss the expansion of Ohio's universal waste program to include paint and paint-related wastes, similar to regulations already implemented in the state of Texas. Expansion of the universal waste program provides benefits to both the environment (i.e., promotes recycling) and business (i.e., reduced regulatory costs and burdens). Therefore, OMA proposes that Ohio EPA expand its current list of universal wastes to include paint and paint-related waste. The OMA universal waste work group continues to work on draft language the agency can use to implement such a change to the current universal waste regulatory program.

Preparing Your Business for an Ohio EPA Inspection

Under Ohio's laws, district or local EPA offices have the authority to inspect a company at any reasonable time. This fact sheet will help you understand and be better prepared for an Ohio EPA inspection when it happens at your company.

The Inspection Process

Ohio EPA is divided into several different divisions (for example, air, waste and water), each with its own technical and field staff. This means that one or more different EPA inspectors could visit a company during a year. Ohio EPA routinely conducts unannounced inspections, so an inspector may arrive at your company without prior notice. The inspection process usually includes four main areas:



Opening Meeting

An opening meeting is conducted at the beginning of the inspection. During the meeting, the inspector will ask for a description of the company's operations. The inspector will ask about the raw materials used and wastes or discharges from the company.

The inspector will review records that relate to environmental regulations. Ohio EPA's inspection authority allows for the inspector to obtain photocopies of records. Some common records reviewed during inspections include:

- permits;
- inspection logs;
- equipment and operating records;
- waste shipping papers;
- sampling or monitoring data; and
- material safety data sheets.

Facility walk-through

The inspector will walk through the facility to observe processes and activities (for example, how the company collects and handles wastes). The inspector will walk around outside the building(s), looking for air emissions, water discharges or to inspect areas where wastes are handled.

During the walk-through, the inspector might ask employees questions about the company's processes or practices. The inspector will take notes during all phases of the inspection, including the walk-through. The inspector might also have a camera and take photographs during the inspection. Typical areas photographed include: process or waste units such as tanks or containers, areas where spills or leaks have occurred, discharges/emissions, etc. Sometimes an inspector will take samples (soil, water, waste) during an inspection.

Preparing Your Business for an Ohio EPA Inspection

Closing meeting

During the closing meeting, the inspector will summarize his or her findings. The inspector cannot always give a complete summary of the inspection, particularly if a situation requires more information or additional research. The inspector will usually describe the general paperwork procedures that follow the inspection such as when to expect the inspection report or follow-up letter.

Written Summary

A report is mailed to the company after the inspection. The report includes a letter or summary of the inspection results. The report will identify any EPA violations or other problem areas found during the inspection. A copy of the inspector's field checklist might also be included with the report.

Understanding the inspection process can help you prepare your company for an Ohio EPA visit. Other guidelines to help decrease the possibility of violations or having your company subject to legal action are outlined below.

Before the inspection . . .

Be prepared. Monitor your company's activities so you keep up-to-date and in compliance with the environmental regulations.

Ask questions. Call Ohio EPA technical staff or other environmental professionals if you have questions about the environmental regulations. You can call your local Ohio EPA office anonymously and ask questions about the regulations if you are unsure of whether your company is in compliance.

Make sure there is someone at the company who can contact you immediately or can accompany an inspector if you are away. Ohio EPA can conduct an inspection even if the business owner is not on-site.

Make sure your environmental records are up-to-date and in order so you can find them easily during the inspection. Many companies keep separate records for different program areas (such as separate files for air, waste and water related records). How you organize your records is up to you - the key is making sure that records can be easily retrieved during an inspection.

When the inspector arrives on site . . .

Be sure to see the inspector's identification badge and get a business card. Inspectors may be from different EPA offices or divisions, so it's important for you to know exactly who the inspector is and what division he or she represents.

Common Violations Found During Ohio EPA Inspections

Air Quality Violations

- Installing/operating equipment without permits
- Not keeping records required by permits
- Discharging air contaminants (pollutants) in excess of permit limits
- Not maintaining air pollution control equipment

Hazardous Waste Violations

- Not evaluating wastes to find out if they are hazardous
- Containers of hazardous waste open or in poor condition
- Failure to test and maintain emergency equipment as necessary
- Not labeling used oil containers and fill pipes
- Failure to inspect hazardous waste container storage areas at least weekly

Wastewater Violations

- Installing new wastewater treatment equipment without a permit
- Discharging wastewater without a permit or permission of local wastewater plant
- Intermittent discharges into drains, storm sewers or on-site septic systems

Drinking Water Violations

- Drilling a well or installing water treatment equipment without approval
- Not doing bacteriological or chemical sampling

Preparing Your Business for an Ohio EPA Inspection

Ask the reason for the inspection. The inspection could be a complaint investigation, routine inspection or part of a special Ohio EPA compliance initiative.

Accompany the inspector at all times. The inspector may not recognize unique safety hazards at your company such as ladders, roofs and walkways.

Be cooperative. The inspector is on-site to assess compliance with environmental regulations. A cooperative attitude from the company is helpful in getting the inspection done quickly and efficiently.

Ask for a written follow-up letter or inspection report. This is usually standard procedure, but ask when you will receive the letter or report. Remember, inspection reports are public records and you have a right to know the findings.

After the inspection . . .

If your company receives a Notice of Violation (NOV) letter after an inspection, here are some simple dos and don'ts to remember:

- ✓ **Do** be sure that you read and understand the NOV. If you have questions about anything in the letter, call the inspector directly. You may want to call the inspector after getting the NOV to acknowledge that you received it.
- ✓ **Do** follow the instructions in the NOV and take timely actions to correct violations. As violations are corrected, document and submit this information to the inspector.
- ✓ Most NOVs include a deadline for response. **Do** ask for additional time if you need it to prepare a response to the NOV or to correct violations. Ohio EPA provides some flexibility to companies in responding to NOVs if it is known that you are working on the problem.
- ✓ **Do** keep the inspector informed of your progress in correcting violations. Remember that your company remains in violation (and subject to enforcement action) even if additional time in responding to the NOV is granted. It is still important to return to compliance as quickly as possible.
- ✓ **Do** talk with the inspector directly if you are unclear about what you need to do to correct violations. Most NOVs will state what the company needs to do to correct violations, but ask if you're not sure. Talk with the inspector about how to correct violations. The company can probably correct violations on its own without hiring outside help.
- ✓ **Do** ask for an explanation of the enforcement process. Receiving a NOV is to be taken seriously; however, it doesn't necessarily mean that the company will also receive a penalty. The NOV is just the first step in the enforcement process. Often, when a company works diligently to correct violations, Ohio EPA does not seek fines or penalties.
- ✓ **Do Not** throw the NOV away. Failure to respond to the NOV and take corrective measures will usually result in a more serious enforcement action (which could mean fines or penalties).
- ✓ **Do Not** wait until the last day to respond. Responding before a deadline shows your company is making a good faith effort toward compliance.
- ✓ **Do Not** cut off communication with the Ohio EPA. Even though your company has been inspected and received an NOV, the inspector is still available to give you technical guidance. The inspector can help you in identifying measures needed to correct problems.

Need More Help?

Additional questions about Ohio EPA inspections can be directed to your local Ohio EPA district office. Small businesses can also contact the Office of Compliance Assistance and Pollution Prevention (OCAPP) at (614) 644-3469 or (800) 329-7518 for free help. OCAPP is a non-regulatory office of Ohio EPA with a goal of helping small businesses understand and comply with the environmental requirements.

Preparing Your Business for an Ohio EPA Inspection

Ohio EPA District Offices

Central District Office

50 W. Town St., Suite 700
Columbus, OH 43215
(614) 728-3778
Fax: (614) 728-3898
Non-Emergency Complaints:
(800) 686-2330
epa.ohio.gov/districts.aspx

Northeast District Office

2110 E. Aurora Rd.
Twinsburg, OH 44087
(330) 963-1200
Fax: (330) 487-0769
Non-Emergency Complaints:
(800) 686-6330
epa.ohio.gov/districts.aspx

Northwest District Office

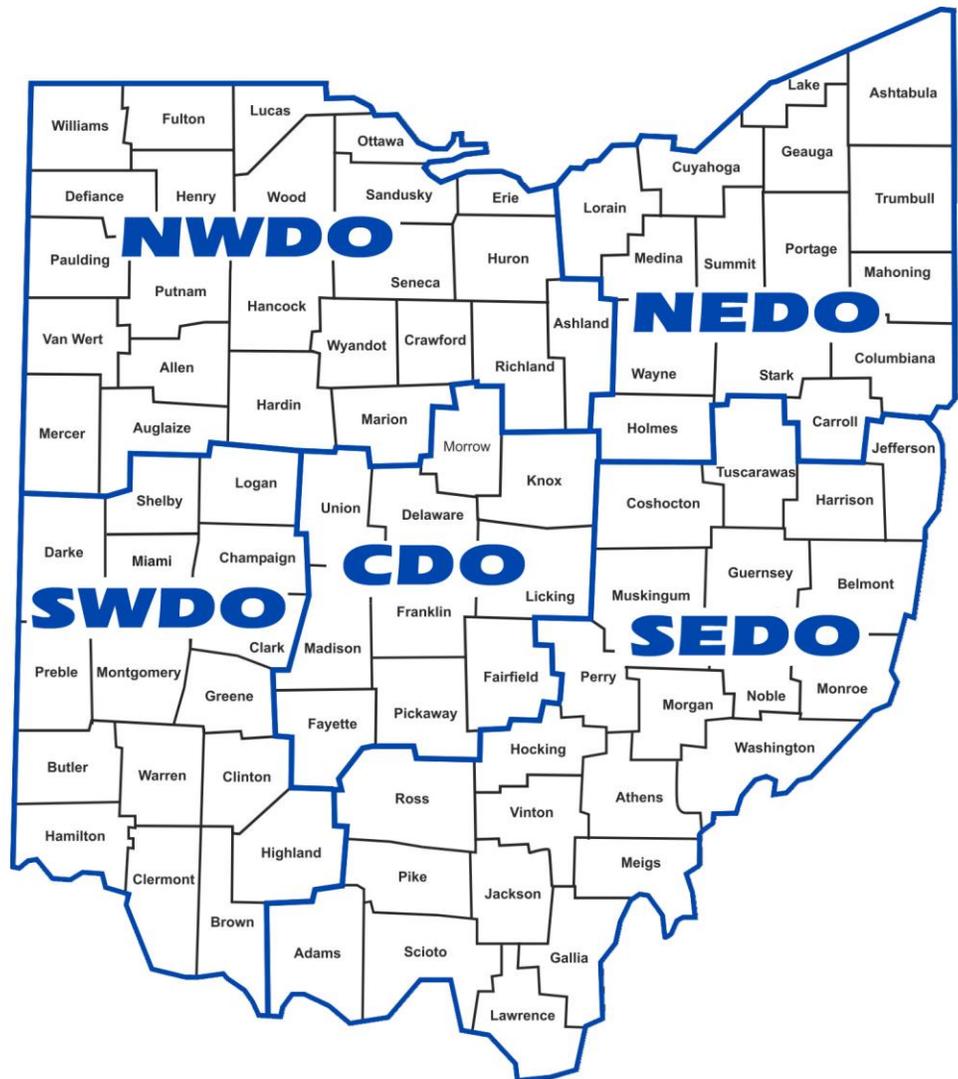
347 N. Dunbridge Rd.
Bowling Green, OH 43402
(419) 352-8461
Fax: (419) 352-8468
Non-Emergency Complaints:
(800) 686-6930
epa.ohio.gov/districts.aspx

Southeast District Office

2195 Front St.
Logan, OH 43138
(740) 385-8501
Fax: (740) 385-6490
Non-Emergency Complaints:
(800) 686-7330
epa.ohio.gov/districts.aspx

Southwest District Office

401 E. Fifth St.
Dayton, OH 45402
(937) 285-6357
Fax: (937) 285-6249
Non-Emergency Complaints: (800) 686-8930
epa.ohio.gov/districts.aspx



Toll-free numbers are for citizens with questions or concerns about environmental issues. The regulated community should use the business line for routine business. Spills and emergencies should be reported to (800) 282-9378.

Environment

Director Butler Testifies on State Budget Bill

This week, Ohio EPA Director [Craig Butler](#) gave the agency's [testimony](#) on [House Bill 64](#), the state budget bill. Ohio EPA's budget does not include any fee increases; however, the agency is asking to extend existing fees for its air, surface water, drinking water and materials and waste management divisions, and to reallocate materials and waste management funding to support its focus on business assistance, compliance assistance and pollution prevention.

The director also made a pitch for creating the Certified Water Quality Professional program that will allow a prequalified, third party private-sector evaluation and assessment of wetlands and streams for water quality certification and Isolated Wetland Permit applications.

The agency is also asking for the authority to request chemical information that may include confidential trade secret information in the event of an emergency. Ohio EPA emergency response staff responds 24/7, 365 to environmental spills and disasters and coordinates mitigation and cleanup efforts with local, state and federal partners. The proposal allows Ohio EPA to ask for information from companies during an emergency and share that information with others, such as water treatment plant operators who have an immediate public health or safety interest to protect. 3/5/2015

Great Lakes Brewery on Tap for OMA Environment Committee

Well, not exactly, but we didn't discourage our guest presenter on sustainability from bringing samples to our [March 12](#) OMA Environment Committee meeting.

Other potent presentations include:

- Remarks by guest speaker, Michael Fraizer, Assistant Policy Director - Environment, Energy, Agriculture, for the Kasich Administration.
- Updates on Ohio water quality, beneficial use rules and universal waste.
- A briefing on the proposed state budget and its impacts on environmental policies.
- Updates on proposed federal rules including U.S. EPA's ground-level ozone reduction proposal.

- And, Ohio EPA staff will brief members on its recycling data initiative.

[Register here](#) for in-person or call-in participation. Committee meetings are held in the [OMA offices](#) in Columbus and we always serve a nice lunch. 3/4/2015

Time to Act Against Federal Ground-Level Ozone Proposal

OMA is calling on members to ask their federal elected officials to halt the U.S. EPA's economy-destroying ground-level ozone proposal by using the quick and easy communication tools at OMA's [Manufacturing Advocacy Center](#).

U.S. EPA announced its intention to tighten the ozone air quality standards from the current 75 ppb (parts per billion) to within a range of 65 to 70 ppb.

The Clean Air Act requires EPA to review the standards every five years. EPA last updated these standards in 2008, setting them at 75 ppb.

According to new data from NERA Economic Consulting (NERA), commissioned by the National Association of Manufacturers (NAM), [no Ohio county](#) is projected to be in attainment at 65 ppb.

The [NERA newly updated study](#) on the potential cost of compliance: "This study evaluates the potential compliance costs and impacts on the U.S. economy if the U.S. Environmental Protection Agency (EPA) were to set a National Ambient Air Quality Standard (NAAQS) for ozone of 65 parts per billion (ppb). Employing our integrated energy-economic macroeconomic model (NewERA), we estimate that the potential emissions control costs could reduce U.S. Gross Domestic Product (GDP) by about \$140 billion per year on average over the period from 2017 through 2040 and by about \$1.7 trillion over that period in present value terms. The potential labor market impacts represent an average annual loss employment income equivalent to 1.4 million jobs (i.e., job-equivalents)."

Interested parties have until March 17, 2015 to comment. The final rule is scheduled to be released October 1, 2015.

Here is [more information from NAM](#) and more about the proposed rule on U.S. EPA's [ozone informational page](#). 2/25/2015

Partnership Aims for Improved Recycling Data

Ohio EPA indicates that collecting accurate information about Ohio recycling activities is a challenge. As a result the OMA and other business associations are [collaborating with EPA](#) to encourage businesses to submit their recycling data.

Each year, Ohio's 52 local solid waste management districts survey businesses in their districts about the amounts and types of materials being recycled. This provides a statewide picture of recycling activities, trends and opportunities.

Complete the [survey online](#) or when you receive your survey in the mail.

Voluntary participation in the survey benefits businesses by connecting them to the local solid waste management districts that serve their region. Solid waste districts can help businesses figure out what waste materials may be recycled and identify markets for these materials.

In addition, Ohio EPA offers grants, technical assistance and recognition to businesses who want to increase recycling or develop markets for recycled products.

"Industry is an enormous consumer of recycled materials, such as metals, glass, paper and plastics; thus, manufacturers are strong advocates for recycling systems in Ohio. Measuring and reporting recycling efforts is valuable for all of Ohio's audiences," said OMA's Rob Brundrett. 2/25/2015

Ohio EPA Offers Free Webinar on E3 Program

On Wednesday, March 18, 2015, 10:00 - 11:00 a.m., Ohio EPA's Office of Compliance Assistance and Pollution Prevention (OCAPP) offers a no-charge webinar about Ohio EPA's Encouraging Environmental Excellence Program.

A brief overview of the Encouraging Environmental Excellence Program will be followed by a description of the pollution prevention and sustainability efforts of three Ohio businesses that have been recognized at the Bronze, Silver and Gold Levels.

Click [here](#) for additional information and [here](#) to register. 2/26/2015

Ohio EPA Budget Focuses on Water

The proposed budget for the Ohio Environmental Protection Agency (EPA) for the coming biennium is heavy with water issues. And, the budget would

extend, not raise, existing fees for Air, Surface Water, Drinking Water and Materials and Waste Management divisions.

Read an [EPA summary of the budget](#) here. 2/19/2015

Obama Administration to Take Aim at Methane Next

OMA Connections Partner, Jones Day, reported that on January 14, 2015, the Obama Administration and the U.S. EPA announced a plan to propose standards to control methane emissions from new and modified oil and natural gas production sources.

The future regulation, which represents part of the Administration's Climate Action Plan Strategy to Reduce Methane Emissions will be proposed under § 111(b) of the Clean Air Act and is projected to reduce methane emissions by up to 45% by 2025, as compared to 2012 levels. The EPA plans to issue the proposed regulations this summer, with the rule to be finalized by 2016.

After proposing the Clean Power Plan to limit carbon emissions from existing electric generating units, the EPA intends for this new methane standard to serve as the next step in reducing overall greenhouse gas (GHG) emissions.

The EPA estimates that methane emissions accounted for nearly 10% of GHG emissions in the U.S. in 2012, while noting that methane possesses 25 times the heat-trapping potential of carbon dioxide over a 100-year period. Without new measures to control methane emissions, the Administration projects that methane emissions will increase by more than 25 percent by 2025. [Read more from Jones Day](#). 2/12/2015

New Federal Ozone Proposal Would Choke Ohio Economy

With the federal government's push to [tighten](#) the ground-level ozone air quality standards from the current 75 ppb (parts per billion) to a range between 65 to 70 ppb, Ohio may potentially move from being almost completely in attainment to being completely out of attainment.

As Ohio EPA continues to study the impacts of the newly proposed ozone rule, [data](#) shows that currently all the major urban areas of Ohio are inside 75 ppb except for Cleveland. However, if the standard is lowered to under 70 ppb, the entire state would be out of attainment. Non-attainment essentially prevents the economy from growing, any.

Interested parties have until March 17 to submit comments to U.S. EPA. The [OMA strongly urges](#) U.S. EPA to maintain the current standard. 1/29/2015

Ohio EPA Reminds Businesses Annual Reports are Due

Ohio EPA Air Services reminds Ohio businesses that certain annual reports are due soon. [Here is a summary](#) of reports due and filing tips. 1/29/2015

Financing Help for Small Manufacturers to Meet Clean Air Rules

For small Ohio manufacturers that are subject to federal and state clean air regulations, there is a long-standing state program that offers lower-cost financing to help pay for projects that mitigate air pollution. The Clean Air Resource Center (CARC) – a program of the Ohio Air Quality Development Authority – provides lower-cost grants and loans for air quality projects.

CARC offers grants equal to 30 percent of equipment costs. Grants are capped at a maximum of \$30,000. Specifically, these grants help cover closing costs as well as principal payments on the equipment after it has been installed and operational for at least six months.

CARC also provides tax-incentivized loans to help finance pollution control or prevention projects. Qualifying businesses will have 100 or fewer employees and emit less than 75 tons of all regulated air pollutants or 50 or fewer tons of any such pollutant.

Find out more by calling 800-225-5051 or 614-728-3540 and visiting the [CARC web page](#). 1/15/2015

OMA Announces 2015 Environment Committee Dates

The 2015 OMA Environment Committee calendar is set. Meetings provide members an opportunity to work with peers and meet with state leaders on important environmental issues. Meetings are held in-person in Columbus and a call-in option is available.

Many of the proposed federal rules - including new ozone standards and the "Clean Power Plan" - will dominate 2015 and could have major implications for Ohio manufacturers. The committee provides the information and analyses you need to follow and help shape the legislative & regulatory environment.

The 2015 meetings are scheduled for: (click to add to your calendar) [Thursday March 12](#), [Tuesday June 16](#), and [Thursday October 22](#).

[Register here](#). For questions please contact OMA's [Rob Brundrett](#) who staffs the committee. 1/15/2015

Ozone Rule Comment Period Begins

U.S. EPA's proposed rule for National Ambient Air Quality Standards for Ozone was officially published in the [Federal Register](#) on December 17, 2014. This began the clock for interested parties to submit comments on the proposed rule. The deadline to file comments is March 17, 2015.

The EPA is proposing to revise the primary standard from 0.075 to within the range of 0.065 to 0.070 parts per million (ppm), and to revise the secondary standard to within the range of 0.065 to 0.070 ppm.

Read more about the proposed rule on U.S EPA's [ozone informational page](#). The OMA in conjunction with the National Association of Manufacturers released this [study](#) which estimates that this regulation could be the most costly in history; the organizations will be coordinating advocacy on behalf of manufacturing. 1/7/2015

"Technically Flawed, Not Legal and Unworkable"

In filing [Ohio EPA comments](#) to the federal government's "Carbon Pollution Emission Guidelines for Existing Stationary Sources" (also called the "Clean Power Plan"), Ohio EPA director Craig Butler called the plan "technically flawed, not legal and unworkable."

Among its comments:

"U.S. EPA failed to understand and recognize the unique circumstances of Ohio as a deregulated energy marketplace. Within the proposal U.S. EPA compares vertically integrated and deregulated marketplaces, however nowhere does U.S. EPA take these differences into consideration in establishing the best system of emission reduction."

"Currently, it is PJM Interconnection, LLC (PJM), as delegated by the Federal Energy Regulatory Commission (FERC) through the Federal Power Act, whom determines dispatch order by utilizing the least expensive resource first to meet energy demand. Nowhere is U.S. EPA delegated authority for states to usurp the Federal Power Act and mandate generation dispatch based on CO2 emissions rather than cost."

“U.S. EPA disregarded specific and detailed concerns from entities responsible for guaranteeing grid stability.”

“U.S. EPA’s cost analysis is flawed and radically underestimates the projected cost of electricity from this proposal.”

Read the Ohio EPA [talking points](#).

Staff of the Ohio EPA and the Ohio Public Utilities Commission (which participated in the rule analysis) are to be commended for the thorough technical and legal analysis conducted on behalf of our state. *12/2/2014*

Environment Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on March 9, 2015

- HB61** **LAKE ERIE FERTILIZER-DREDGING** (BUCHY J, HALL D) To generally prohibit the application of fertilizer or manure in Lake Erie's western basin on frozen ground or saturated soil and during certain weather conditions, to require publicly owned treatment works either to monitor monthly total and dissolved phosphorous or to prepare optimization studies that evaluate their ability to reduce phosphorous, and to prohibit a person, beginning July 1, 2020, from depositing dredged material in Ohio's portion of Lake Erie and its direct tributaries that resulted from harbor or navigation maintenance activities unless authorized to do so by the director of environmental protection.
Current Status: 3/4/2015 - Bills for Third Consideration
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-61>
- HB64** **OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.
Current Status: 3/12/2015 - House Finance Subcommittee on Primary and Secondary Education, (Eighth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- HB101** **HAB MITIGATION** (HALL D) To establish requirements governing the training of employees of publicly owned treatment works and public water systems to monitor and test for harmful algae, the development of emergency plans by certain public water systems to respond to harmful algal blooms, and the development of an early warning system for harmful algal blooms, and to require the Director of Natural Resources to study the impact of certain species on Lake Erie.
Current Status: 3/4/2015 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-101>
- SB1** **GREAT LAKES-HARMFUL ALGAE** (GARDNER R, PETERSON B) To transfer the administration and enforcement of the Agricultural Pollution Abatement Program from the Department of Natural Resources to the Department of Agriculture, to require applicators of fertilizer or manure to comply with specified requirements, to create the Office of Harmful Algae Management and Response in the Environmental Protection Agency, to establish requirements governing dredged material, nutrient loading, phosphorous testing by publicly owned treatment works, and household sewage treatment systems, and to declare an emergency.
Current Status: 3/11/2015 - House Agriculture and Rural Development, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-1>
- SB16** **WATERSHEDS-FERTILIZER APPLICATION** (BROWN E) To require applicators of fertilizer or manure to comply with specified requirements and to authorize the Director of Environmental Protection to study and calculate nutrient loading to Ohio watersheds from point and nonpoint sources.
Current Status: 2/10/2015 - Senate Agriculture, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-16>

- SB46** **LAKE ERIE DRILLING BAN** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 2/18/2015 - Referred to Committee Senate Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-46>
- SB47** **DEEP WELL BRINE INJECTION PROHIBITION** (SKINDELL M) To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.
Current Status: 2/18/2015 - Referred to Committee Senate Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-47>
- SB114** **MICROCYSTIN LEVELS-PUBLIC WATER** (SKINDELL M) To establish requirements and procedures pertaining to levels of microcystin in public water systems.
Current Status: 3/4/2015 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-114>