



**Testimony of Ohio EPA  
Senate Bill 2  
Senate Oversight and Reform Committee  
February 17, 2011**

Chairman Seitz, and members of the Senate Oversight and Reform Committee, my name is Scott Nally, and I am the Director of the Ohio Environmental Protection Agency. I am pleased to offer my support for the process of codifying the Governor's Executive Order 2011-01k establishing the Common Sense Initiative and Lt. Governor Taylor's effort to facilitate the reform.

The Common Sense Initiative was created as a tool to monitor the rule making process and determine how proposed rules affect small businesses. It is a very worthwhile goal and Ohio EPA fully supports streamlining the regulatory process that businesses have to navigate to allow them to spend more time focusing on their businesses and job creation, while still ensuring that state agencies fulfill their regulatory obligations under state and federal law.

During her testimony, Lt. Governor Taylor mentioned pilot projects that the Ohio EPA and the CSI Office have developed and are working through together under the new CSI process. One example of how the Ohio EPA is trying to work in the spirit of the Executive Order's requirement to analyze real or potential impacts of rules on small businesses is our attempt to modify the current process for issuing a National Pollutant Discharge Elimination System (NPDES) permit as it pertains to enforcement. NPDES permits authorize the discharge of substances at levels that meet water quality standards and establish other environmentally-protective conditions related to issues such as combined sewer overflows, pretreatment of wastewater and sludge disposal. Current rules prohibit the Ohio EPA from issuing a permit renewal or modification when an enforcement action is pending. The Director would be prohibited from approving the permit, even if the renewal would result in higher environmental standards. The proposed rule would provide the Ohio EPA Director with the authority to renew or modify a permit when an enforcement action is pending if certain criteria are met.

In the second instance, our agency is currently drafting a rule which also needs to be analyzed to determine its impact on small businesses that would provide a "permit by rule" option for meeting permitting requirements for the installation or modification, and operation of an air contaminant source. Although, a "permit by rule" relieves permittees from the obligation to apply for and obtain a permit-to-install, it does not exempt any contaminant source from requirements of the Clean Air Act nor does it relieve the owner or operator from the requirement of including emissions associated with the exempt sources into any major New Source Review permitting action. I believe this type of rule is a perfect example of regulatory reform by streamlining the process for small businesses and our agency while still maintaining environmental protection as required by federal and state law.

Finally, I have requested the CSI Office to conduct a review of the Ohio EPA's organizational structure to determine if it promotes consistency, predictability and flexibility; a major objective of Senate Bill 2 and the Executive Order. Most importantly, we are interested in determining if the current structure holds our staff accountable for their performance; another objective of Senate Bill 2.

I appreciate the opportunity to share with you some of the projects I have offered to the Lt. Governor to evaluate in light of the Common Sense Initiative. I look forward to her assistance in working towards implementing changes to help make the agency more efficient and responsive to the needs of the regulated community.