
ENVIRONMENTAL PROTECTION AGENCY

Extension of E-Check

- Authorizes the extension of the motor vehicle inspection and maintenance program (E-Check) through June 30, 2021, in Ohio counties in which a program is federally mandated.
- Retains the requirement that the new contract ensure that the program achieves at least the same emissions reductions as achieved by the program under the contract that was extended.
- Retains the requirement under which the Director of Administrative Services must use a competitive selection process when entering into a new contract with a vendor.
- Also retains all statutory requirements governing the implementation and operation of the program, including requirements that the program must be a decentralized program and that it must include a new car exemption.

Waste Management Fund

- Renames the Solid Waste Fund in the Solid, Hazardous, and Infectious Wastes Law the Waste Management Fund, and does all of the following with regard to the uses of the Fund:
 - Eliminates its use for providing compliance assistance to small businesses and paying a share of the administrative costs of the Environmental Protection Agency; and
 - Retains its use for the other purposes specified in continuing law; and
 - Adds that it must be used to address violations of the Air and Water Pollution Control Laws at facilities regulated under the Solid, Hazardous, and Infectious Wastes Law.
- Eliminates the Construction and Demolition Debris Facility Oversight Fund, credits the money that currently is credited to that Fund to the Waste Management Fund, and retains the use of that money exclusively for the administration and enforcement of the Construction and Demolition Debris Law and rules adopted under it.
- Does the following regarding the Infectious Waste Management Fund:



--Eliminates the Fund, and credits the money that currently is credited to that Fund to the Waste Management Fund; and

--Requires, rather than authorizes as in current law, the Director of Environmental Protection to use that money exclusively for the administration and enforcement of the infectious waste provisions in the Solid, Hazardous, and Infectious Wastes Law and rules adopted under them.

Solid waste transfer and disposal fees

- Extends the expiration of four state fees levied on the transfer or disposal of solid waste from June 30, 2016, to June 30, 2018.
- Retains the aggregate amount of those fees at \$4.75, and reallocates several of the individual fees and their uses, including increasing the fee the proceeds of which are credited to the Environmental Protection Fund, which is used in part for administration, and requiring that Fund also to be used for small business compliance assistance.

Sale of tire fees

- Extends from June 30, 2016, to June 30, 2018, the expiration of both of the following:
 - The 50¢ per-tire fee on the sale of tires the proceeds of which are used to fund the scrap tire management program; and
 - An additional 50¢ per-tire fee on the sale of tires the proceeds of which are credited to the Soil and Water Conservation District Assistance Fund.

Materials Management Advisory Council

- Merges the Solid Waste Advisory Council with the Recycling and Litter Prevention Advisory Council, and renames the merged Council the Materials Management Advisory Council.
- Generally transfers the duties and responsibilities of the two Councils to the new Council, and establishes the following additional duties and responsibilities:
 - Triennially providing advice to the Director of Environmental Protection in conducting a review of the progress made toward achieving the objectives, restrictions, and goals established under specified provisions of the statute governing the state solid waste management plan;

- Preparing and submitting an annual report to the General Assembly on the state's solid waste management system and efforts towards achieving the goals, restrictions, and objectives established under specified provisions of the statute governing the plan;
 - Researching and responding to question posed by the Director; and
 - Establishing and developing partnerships that foster a productive marketplace for the collection and use of recycled materials.
- Requires the Governor to appoint the members of the new Council who must represent specified interests.

Extension of various air and water fees

- Extends all of the following for two years:
 - The sunset of the annual emissions fees for synthetic minor facilities;
 - The levying of higher fees, and the decrease of those fees at the end of the two years, for applications for plan approvals for wastewater treatment works under the Water Pollution Control Law;
 - The sunset of the annual discharge fees for holders of national pollutant discharge elimination system permits issued under the Water Pollution Control Law;
 - The sunset of license fees for public water system licenses issued under the Safe Drinking Water Law;
 - A higher cap on the total fee due for plan approval for a public water supply system under the Safe Drinking Water Law and the decrease of that cap at the end of the two years;
 - The levying of higher fees, and the decrease of those fees at the end of the two years, for state certification of laboratories and laboratory personnel for purposes of the Safe Drinking Water Law;
 - The levying of higher fees, and the decrease of those fees at the end of the two years, for applications to take examinations for certification as operators of water supply systems or wastewater systems under the Safe Drinking Water Law or the Water Pollution Control Law, as applicable; and

--The levying of higher fees, and the decrease of those fees at the end of the two years, for applications for permits, variances, and plan approvals under the Water Pollution Control Law and the Safe Drinking Water Law.

Escrow requirement for community water systems

- Expands the requirement that the owner or operator (hereafter owner) of a community water system deposit a specified amount in escrow when planning to construct, install, or make a substantial modification to the system by removing the exemption for a system supplying water only to premises owned by the water supplier.
- Increases the maximum amount that the owner must deposit in escrow from \$50,000 to \$250,000.
- Specifies that the Director may issue a notice of a failure to correct a significant deficiency in accordance with a schedule accepted by the Director.
- Requires the owner of a system that is subject to the escrow requirement, within five days of receiving a notice, or if funds in an escrow account are not adequate to correct the significant deficiency, to deposit all rents and fees in escrow until the Director determines that the significant deficiency has been corrected.
- Allows the Director to authorize the use of the funds in the escrow for a contractor or receiver to correct the significant deficiency or connect to another public water system approved by the Director.

Lead contamination of drinking water from plumbing

- Prohibits using certain plumbing supplies and materials that are not lead free in the installation or repair of a public water system or of any plumbing in a facility providing water for human consumption rather than requiring certain plumbing supplies and materials that are used in a public water system or in plumbing for facilities connected to a public water system to be lead free as in current law.
- Expands the list of plumbing supplies and materials to which the above prohibition applies to include plumbing fittings and plumbing fixtures.
- Generally prohibits a person from doing any of the following:

--Introducing into commerce any pipe, pipe fitting, or plumbing fitting or fixture that is not lead free;



--Selling solder or flux that is not lead free while engaged in the business of selling plumbing supplies; and

--Introducing into commerce any solder or flux that is not lead free unless the solder or flux has a label stating that it is illegal to use it in the installation or repair of any plumbing providing water for human consumption.

- Establishes several exemptions from the above prohibitions, including pipes, pipe fittings, or plumbing fittings or fixtures that are used exclusively for nonpotable services.
- Revises the definition of "lead free" by specifying that it means, in part, containing not more than a weighted average of .25% lead when used with respect to wetted surfaces of pipes, pipe fittings, or plumbing fittings or fixtures rather than not more than 8% lead when used with respect to pipes or pipe fittings as in current law.
- Establishes a formula for calculating the weighted average lead content of a pipe, pipe fitting, or plumbing fitting or fixture.

Public water system capability

- Requires all public water systems, rather than only specified types of public water systems, to demonstrate the technical, managerial, and financial capability to comply with the Safe Drinking Water Law and rules adopted under it.
- Requires a public water system, prior to October 1, 2018, to submit an asset management plan that is acceptable to the Director in accordance with a schedule established by the Director and, after October 1, 2018, to submit such a plan within 30 days after receiving a request to do so from the Director.
- Requires a public water system to demonstrate capability by implementing a written asset management plan not later than October 1, 2018, unless required earlier by the Director or by a date specified by the Director if the Director has requested a system to submit a plan.
- Requires a public water system to include in the plan specified information, including an inventory and evaluation of all assets and a long-term funding strategy to support asset management plan implementation.
- Authorizes the Director to take regulatory actions to improve and ensure the capability of a public water system that has failed to make the required demonstration, including denying a plan for the construction or installation of or substantial change in a public water system.

- Allows the use of moneys in the existing Drinking Water Protection Fund to meet any state matching requirements that are necessary to obtain federal grants.

Emergency actions and confidentiality under water laws

- Requires a person that discharges material into the environment, if an emergency exists, to disclose information to the Director or the Director's authorized representative (hereafter Director) necessary for response or investigatory purposes under the Water Pollution Control Law.
- Requires the person, if the person claims that the information contains trade secret information, to submit both a complete and a redacted version.
- Allows the Director, during an emergency, to share the complete version with public and private water systems, provided that the water systems maintain the confidentiality of the information and use the information for specified purposes, including:
 - Assessing exposure or potential exposure of persons or aquatic organisms to any component of or chemical in a pollutant or contaminant spilled, released, or discharged; and
 - Testing for such a component or chemical.
- Requires the Director, if the Director shares the complete information, to so notify the person that designates the information as a trade secret as soon as practicable.
- Stipulates both of the following:
 - The sharing of complete information does not affect the designation of a trade secret pursuant to the bill and does not subject the information to public disclosure; and
 - Nothing precludes a person that has designated a trade secret and has provided that information to the Director from requesting a confidentiality agreement with a recipient of the information.
- Authorizes the Director to disclose to a person that seeks to obtain information containing trade secret information the identity of the person that has designated the information as containing trade secrets.
- Establishes similar provisions in the Safe Drinking Water Law.

Phosphorous monitoring for a publicly owned treatment works

- Requires specified publicly owned treatment works, including those with a design flow of one million gallons per day or more, to begin monthly monitoring of total and dissolved phosphorous by December 1, 2016.
- Requires publicly owned treatment works that are not subject to specified phosphorous effluent limit to complete and submit an optimization study, not later than December 1, 2017, that evaluates their ability to reduce phosphorous to that limit.

Water Pollution Control Loan Fund

- Expands the uses of the existing Water Pollution Control Loan Fund by adding eight categories of projects and activities that may receive assistance from the Fund.
- Adds state agencies to the types of entities that may receive money from the Fund under continuing law for the construction of publicly owned wastewater treatment works.
- Revises how the Fund is to be used to pay the reasonable costs of administering the Fund and its governing statute.
- Requires all loans made from the Fund to be fully amortized not later than 30 years after project completion rather than 20 years.
- Allows money credited to the Fund to be used for the awarding of principal forgiveness assistance under the Federal Water Pollution Control Act.
- Removes the requirement that the Director must first determine that sewerage systems tributary to a publicly owned treatment works are not subject to excessive infiltration and inflow before providing financial assistance from the Fund for a treatment works project.
- Revises the requirement that, before providing financial assistance, the Director must first determine that the applicant will implement a user charge system to pay the operation, maintenance, and replacement expenses of the project by eliminating the stipulation that the user charge system be a proportional system.
- For purposes of the statute governing the Fund, expands the definition of "Federal Water Pollution Control Act" to include applicable portions of the American Recovery and Reinvestment Act of 2009 and the Water Resources Reform and Development Act of 2014.



Section 401 water quality certification; certified water quality professionals

- Requires data sufficient to determine the existing aquatic life use, rather than a use attainability analysis, to accompany an application for a section 401 water quality certification if the project involves a stream for which a specific aquatic life use designation has not been made.
- Authorizes the Director to establish a program and adopt rules to certify water quality professionals to assess streams to determine existing aquatic life use and to categorize wetlands in support of applications for section 401 water quality certification and isolated wetland permits.
- Requires the Director to use information submitted by certified water quality professionals in reviewing such applications.
- Requires the Director's rules to address specified topics, including experience requirements for applicants, an annual certification fee, suspension and revocation of certifications, and technical standards to be used by certified water quality professionals in conducting stream assessments and wetlands categorizations.

Dredged material in Lake Erie and tributaries

- Beginning July 1, 2020, prohibits a person from depositing dredged material in Ohio's portion of Lake Erie and direct tributaries that resulted from harbor or navigation maintenance activities unless authorized by the Director.
- Authorizes the Director of Environmental Protection, in consultation with the Director of Natural Resources, to determine that factors exist that result in the inability to comply with the above prohibition and, after making that determination, to allow open lake placement of dredged material from specified bodies of water through the issuance of a section 401 water quality certification.
- Allows the Director of Environmental Protection to authorize the deposit of dredged material from harbor or navigation maintenance activities for specified facilities and projects, including beach nourishment and habitat restoration.
- Authorizes the Director of Environmental Protection to consult with the Director of Natural Resources for the above purpose, but specifies that the Director of Environmental Protection has exclusive authority to approve the location in which dredged material is proposed to be deposited.

- Requires the Director of Environmental Protection to endeavor to work with the U.S. Army Corps of Engineers on a dredging plan that focuses on long-term planning for the disposition of dredged material consistent with the above requirements.

Enforcement of Water Pollution Control Law

- Increases criminal penalties for certain violations of the Water Pollution Control Law, and establishes culpable mental states regarding certain violations.
- Provides that if a person is convicted of or pleads guilty to a violation of any provision of that Law, the sentencing court may order the person to reimburse the state agency or a political subdivision for any actual response costs, including addressing impacts to aquatic resources.

Air Pollution Control Law technical correction

- Corrects an erroneous cross-reference.

Extension of E-Check

(R.C. 3704.14)

The bill authorizes the extension of the motor vehicle inspection and maintenance program (E-Check) through June 30, 2021, in Ohio counties in which a program is federally mandated. The bill accomplishes the extension by doing both of the following:

--Authorizing the Director of Environmental Protection to request the Director of Administrative Services to extend the contract in existence on June 30, 2015, for a period of up to 24 months through June 30, 2017; and

--Requiring that prior to the expiration of the contract extension, the Director of Environmental Protection request the Director of Administrative Services to enter into a new contract with a vendor to operate a program in Ohio counties in which a program is federally mandated through June 30, 2019, with an option for the state to renew the contract for a period of up to 24 months through June 30, 2021.

The bill retains the requirement that the new contract ensure that the program achieves at least the same emissions reductions as achieved by the program under the contract that was extended. It also retains the requirement under which the Director of Administrative Services must use a competitive selection process when entering into a new contract with a vendor. Finally, the bill retains all statutory requirements



governing the implementation and operation of the program, including requirements that the program must be a decentralized program and that it must include a new car exemption.

Waste Management Fund

(R.C. 3714.051, 3714.07, 3714.08, 3714.09, 3734.02, 3734.021, 3734.061, 3734.07, 3734.551, and 3734.57)

The bill renames the Solid Waste Fund in the Solid, Hazardous, and Infectious Wastes Law the Waste Management Fund. It also eliminates the Construction and Demolition Debris Facility Oversight Fund and the Infectious Waste Management Fund and credits the money that currently is credited to those Funds to the Waste Management Fund. It then does all of the following with regard to the purposes for which the renamed Fund is used:

(1) Retains the use of money collected from the following sources for the administration and enforcement of the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris:

--One of the four state fees levied on the transfer or disposal of solid waste (see fee discussion below); and

--Reimbursement of expenses incurred by the Director of Environmental Protection in preparing and ordering the implementation of an initial or amended solid waste management plan.

(2) Eliminates the use of the Fund for providing compliance assistance to small businesses and paying a share of the administrative costs of the Environmental Protection Agency (EPA) (see fee discussion below);

(3) Adds that the Fund must be used to address violations of the Air and Water Pollution Control Laws at facilities regulated under the Solid, Hazardous, and Infectious Wastes Law;

(4) Retains the use of money collected from the following sources exclusively for the administration and enforcement of the Construction and Demolition Debris Law and rules adopted under it:

--The application fee for the issuance of a permit to install a new construction and demolition debris facility;

--The disposal fee for construction and demolition debris or asbestos or asbestos-containing material; and



--Reimbursement of expenses incurred by the Director for the inspection of, or investigation of a violation by, a construction and demolition debris facility;

(5) Retains the use of money collected from the following sources exclusively for the administration and enforcement of the infectious waste provisions in the Solid, Hazardous, and Infectious Wastes Law and rules adopted under them:

--The registration fee for an infectious waste generator; and

--Reimbursement of expenses incurred by the Director for the inspection of, or investigation of a violation by, an infectious waste treatment facility or a solid waste facility that accepts infectious wastes.

Finally, regarding the use of money collected from the sources specified in item (5), above, the bill requires, rather than authorizes as in current law, the Director to use that money for the specified purposes.

Solid waste transfer and disposal fees

(R.C. 3734.57 and 3745.015)

The bill revises provisions governing solid waste transfer and disposal fees in the Solid, Hazardous, and Infectious Wastes Law. It extends the expiration of four state fees levied on the transfer or disposal of solid waste from June 30, 2016, to June 30, 2018. In addition, it retains the aggregate amount of those fees at \$4.75, but reallocates the individual fees and their uses as follows:

(1) Decreases from \$1 to \$.90 the per-ton fee the proceeds of which are credited to two funds that are used for purposes of Ohio's hazardous waste management program, and allocates \$.20, rather than 30% as in current law, of the fee to the Hazardous Waste Facility Management Fund and \$.70, rather than 70% as in current law, to the Hazardous Waste Clean-Up Fund;

(2) Decreases from \$1 to \$.75 the per-ton fee the proceeds of which are credited to the Solid Waste Fund (renamed the Waste Management Fund by the bill), which is used for the solid and infectious waste and construction and demolition debris management programs;

(3) Increases from \$2.50 to \$2.85 the per-ton fee the proceeds of which are credited to the Environmental Protection Fund, which is used by EPA to pay its costs of administering and enforcing laws governing environmental protection, and requires that Fund to also be used to pay the costs of providing compliance assistance to small businesses; and



(4) Retains the \$.25 per-ton fee the proceeds of which are credited to the Soil and Water Conservation District Assistance Fund, which is used to assist soil and water conservation districts.

Sale of tire fees

(R.C. 3734.901)

The bill extends until June 30, 2018, the sunset of the 50¢ per-tire fee on the sale of tires the proceeds of which are used to fund the scrap tire management program. The fee is scheduled to expire on June 30, 2016.

The bill also extends until June 30, 2018, the sunset of an additional 50¢ per-tire fee on the sale of tires the proceeds of which are credited to the Soil and Water Conservation District Assistance Fund, which is used to provide money to soil and water conservation districts. Current law requires the additional fee to be collected and so credited until June 30, 2016.

Materials Management Advisory Council

(R.C. 3734.49, 3734.50, 3734.51 (repealed), 3734.822, 3736.03, 3736.04 (repealed), 3736.05, and 3736.06; Section 515.10)

The bill merges the Solid Waste Advisory Council with the Recycling and Litter Prevention Advisory Council and renames the merged Council the Materials Management Advisory Council. It generally transfers the duties and responsibilities of the two Councils, as indicated in parentheses, to the new Council and establishes additional duties and responsibilities for the new Council, as indicated in parentheses, as follows:

(1) Providing advice and assistance to the Director of Environmental Protection with preparation of the state solid waste management plan and periodic revisions to the plan (Solid Waste Management Advisory Council);

(2) Approving or disapproving the draft state solid waste management plan and periodic revisions prior to the plan's adoption (Solid Waste Management Advisory Council);

(3) Annually reviewing the implementation of the state solid waste management plan (Solid Waste Management Advisory Council);

(4) Preparing and submitting an annual report to the General Assembly on the state's solid waste management system and efforts towards achieving the goals, restrictions, and objectives established under specified provisions of the statute



governing the state solid waste management plan. The report may recommend legislative action (new).

(5) Triennially providing advice to the Director in conducting a review of the progress made toward achieving the objectives, restrictions, and goals established under specified provisions of the statute governing the plan (new);

(6) With the approval of the Director, establishing criteria by which to certify, and certify, state agencies and political subdivisions for receipt of grants for activities or projects that are intended to accomplish the purposes of any of the statewide source reduction, recycling, recycling market development, and litter prevention programs established under current law (Recycling and Litter Prevention Advisory Council);

(7) Advising the Director on establishing and implementing statewide source reduction, recycling, recycling market development, and litter prevention programs (Recycling and Litter Prevention Advisory Council);

(8) Researching and responding to questions posed to the new Council by the Director (new); and

(9) Establishing and developing formal and informal partnerships with other entities that foster a productive marketplace for the collection and use of recycled materials (new).

The bill deletes the requirement that the Solid Waste Management Advisory Council annually review implementation of solid waste management plans of county and joint solid waste management districts.

Under the bill, the Governor, with the advice and consent of the Senate, must appoint the following 11 members to the new Council:

(1) One member who is an employee of a health district whose duties include enforcement of the solid waste provisions of the Solid, Hazardous, and Infectious Wastes Law;

(2) One member representing the interests of counties;

(3) One member representing the interests of municipal corporations;

(4) One member representing the interests of townships;

(5) One member representing the interests of solid waste management districts;

(6) One member representing a statewide environmental advocacy organization;



(7) One member representing the public; and

(8) Four members with knowledge of or experience in waste management, recycling, or litter prevention programs. Those members also must represent a broad range of interests, including manufacturing, wholesale, retail, labor, raw materials, commercial recycling, and solid waste management.

The bill provides for staggered three-year terms for the appointees and includes standard procedures governing their appointment, the filling of vacancies, and removal of appointees. Additionally, the bill requires the Director to appoint the chairperson of the new Council and requires the new Council to meet at least twice a year. A majority vote of the members is necessary to take action. Members serve without compensation, but must be reimbursed for expenses.

Finally, the bill provides for the necessary transfer of assets and liabilities to the new Council and provides that legal actions initiated under current law by either of the existing Councils are to be continued by the new Council.

Extension of various air and water fees

Synthetic minor facility emissions fees

(R.C. 3745.11(D))

Under current law, each person who owns or operates a synthetic minor facility must pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with a fee schedule. A synthetic minor facility is a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under existing law. Current law requires the fee to be paid through June 30, 2016. The bill extends the fee through June 30, 2018.

Water pollution control fees and safe drinking water fees

(R.C. 3745.11(L), (M), and (N))

Under current law, a person applying for a plan approval for a wastewater treatment works is required to pay a fee of \$100 plus 0.65 of 1% of the estimated project cost, up to a maximum of \$15,000, when submitting an application through June 30, 2016, and a fee of \$100 plus 0.2 of 1% of the estimated project cost, up to a maximum of \$5,000, on and after July 1, 2016. Under the bill, the first tier fee is extended through



June 30, 2018, and the second tier applies to applications submitted on or after July 1, 2018.

Current law establishes two schedules for annual discharge fees to be paid by holders of national pollutant discharge elimination system (NPDES) permits with an average daily discharge flow of 5,000 or more gallons per day. Under each of the schedules, one of which is for public dischargers and one of which is for industrial dischargers, the fees are based on the average daily discharge flow and increase as the flow increases. Under current law, the fees are due by January 30, 2014, and January 30, 2015. The bill extends payment of the fees and the fee schedules to January 30, 2016, and January 30, 2017.

In addition to the fee schedules described above, current law imposes a \$7,500 surcharge to the annual discharge fee applicable to major industrial dischargers that is required to be paid by January 30, 2014, and January 30, 2015. The bill continues the surcharge and requires it to be paid annually by January 30, 2016, and January 30, 2017.

Under current law, one category of public discharger and eight categories of industrial dischargers that are NPDES permit holders are exempt from the annual discharge fees that are based on average daily discharge flow. Instead, they are required to pay an annual discharge fee of \$180. Under current law, the fee is due annually not later than January 30, 2014, and January 30, 2015. The bill continues the fee and requires it to be paid annually by January 30, 2016, and January 30, 2017.

The Safe Drinking Water Law prohibits anyone from operating or maintaining a public water system without an annual license from the Director of Environmental Protection. Applications for initial licenses or license renewals must be accompanied by a fee, which is calculated using schedules for the three basic categories of public water systems established in current law. The fee for initial licenses and license renewals is required in statute through June 30, 2016, and has to be paid annually prior to January 31, 2016. The bill extends the initial license and license renewal fee through June 30, 2018, and requires the fee to be paid annually prior to January 31, 2018.

The Safe Drinking Water Law also requires anyone who intends to construct, install, or modify a public water supply system to obtain approval of the plans from the Director. Ongoing law establishes a fee for such plan approval of \$150 plus 0.35 of 1% of the estimated project cost. Under current law, the fee cannot exceed \$20,000 through June 30, 2016, and \$15,000 on and after July 1, 2016. The bill specifies that the \$20,000 limit applies to persons applying for plan approval through June 30, 2018, and the \$15,000 limit applies to persons applying for plan approval on and after July 1, 2018.



Current law establishes two schedules of fees that the EPA charges for evaluating laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established under the Safe Drinking Water Law. A schedule with higher fees is applicable through June 30, 2016, and a schedule with lower fees is applicable on and after July 1, 2016. The bill continues the higher fee schedule through June 30, 2018, and applies the lower fee schedule to evaluations conducted on or after July 1, 2018. The bill continues through June 30, 2018, a provision stating that an individual laboratory cannot be assessed a fee more than once in a three-year period unless the person requests the addition of analytical methods or analysts, in which case the person must pay \$1,800 for each additional survey requested.

Fees for certification of water supply or wastewater systems operators

(R.C. 3745.11(O))

Current law requires a person applying to the Director to take an examination for certification as an operator of a water supply system or a wastewater system to pay a fee, at the time an application is submitted, in accordance with a statutory schedule. A higher schedule is established through November 30, 2016, and a lower schedule applies on and after December 1, 2016. The bill extends the higher fee schedule through November 30, 2018, and applies the lower fee schedule beginning December 1, 2018.

Application fees – water pollution control and safe drinking water

(R.C. 3745.11(S))

Current law requires any person applying for a permit other than a NPDES permit, a variance, or plan approval under the Safe Drinking Water Law or the Water Pollution Control Law to pay a nonrefundable fee of \$100 at the time the application is submitted through June 30, 2016, and a nonrefundable fee of \$15 if the application is submitted on or after July 1, 2016. The bill extends the \$100 fee through June 30, 2018, and applies the \$15 fee on and after July 1, 2018.

Similarly, under existing law, a person applying for a NPDES permit through June 30, 2016, must pay a nonrefundable fee of \$200 at the time of application. On and after July 1, 2016, the nonrefundable application fee is \$15. The bill extends the \$200 fee through June 30, 2018, and applies the \$15 fee on and after July 1, 2018.

Escrow requirement for community water systems

(R.C. 6109.08)

The bill expands the requirement that the owner or operator (hereafter owner) of a community water system or any part of a system deposit a specified amount in

escrow when planning to construct, install, or make a substantial modification to the system by removing the exemption for a system supplying water only to premises owned by the water supplier, but retains the exemptions for a publicly owned and operated system and a system regulated by the Public Utilities Commission. It retains the requirement that the amount deposited in escrow must equal 15% of the system's or part's cost owned by the owner, but increases the maximum amount that the owner must deposit from \$50,000 to \$250,000. The bill authorizes the Director of Environmental Protection in lieu of escrow, to allow a system to provide financial assurance in a form and amount determined by the Director.

Under the bill, the Director may issue a notice of a failure to correct a significant deficiency in accordance with a schedule accepted by the Director. The bill requires the owner of a system that is subject to the escrow requirement, within five days of receiving a notice, or if funds in an escrow account are not adequate to correct the significant deficiency, to deposit all rents and fees in escrow until the Director determines that the significant deficiency has been corrected. The Director may authorize the use of the funds in the escrow for a contractor or receiver to correct the significant deficiency or connect to another public water system approved by the Director.

Lead contamination of drinking water from plumbing

(R.C. 6109.10)

The bill revises the statute governing the prevention of lead contamination of drinking water from plumbing. It first prohibits using any pipe, pipe fitting, plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of a public water system or of any plumbing in a residential or nonresidential facility providing water for human consumption. Current law instead requires pipes, pipe fittings, solder, and flux that are used in a public water system or in plumbing for residential or nonresidential facilities providing water for human consumption that are connected to a public water system to be lead free. The bill retains a provision that exempts leaded joints necessary for the repair of cast iron pipes.

The bill also prohibits a person from doing any of the following:

(1) Introducing into commerce any pipe, pipe fitting, or plumbing fitting or fixture that is not lead free, except for a pipe that is used in manufacturing or industrial processing;

(2) Selling solder or flux that is not lead free while engaged in the business of selling plumbing supplies, except for the selling of plumbing supplies by manufacturers of those supplies; and



(3) Introducing into commerce any solder or flux that is not lead free unless the solder or flux has a label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.

The bill exempts the following from all of the above prohibitions:

(1) Pipes, pipe fittings, or plumbing fittings or fixtures, including backflow preventers, that are used exclusively for nonpotable services; and

(2) Toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are at least two inches in diameter.

Under the bill, the owner or operator of a public water system must identify and provide notice to persons that may be affected by lead contamination of their drinking water if the contamination results from the lead content in the construction materials of the public water distribution system, the corrosivity of the water supply is sufficient to cause the leaching of lead, or both. Current law instead requires each public water system to identify and provide notice to persons that may be affected by lead contamination of their drinking water.

In addition, the bill revises the definition of "lead free" by specifying that it means, in part, containing not more than a weighted average of .25% lead when used with respect to wetted surfaces of pipes, pipe fittings, or plumbing fittings or fixtures rather than not more than 8% lead when used with respect to pipes or pipe fittings as in current law. It retains current law specifying that solders and flux are lead free if they contain not more than .2% lead.

The weighted average lead content of a pipe, pipe fitting, or plumbing fitting or fixture must be calculated by using the following formula: for each wetted component, the percentage of lead in the component must be multiplied by the ratio of the wetted surface area of that component to the total wetted surface area of the entire product to determine the weighted percentage of lead of the component. The weighted percentage of lead of each wetted component must be added together, and the sum of the weighted percentages must constitute the weighted average lead content of the product. The lead content of the material used to produce wetted components must be used to determine whether the wetted surfaces are lead free pursuant to the bill's revised definition of "lead free." For purposes of the lead contents of materials that are provided as a range, the maximum content of the range must be used.

Public water system capability

(R.C. 6109.24)

The bill requires all public water systems, rather than only specified types of public water systems, to demonstrate the technical, managerial, and financial capability to comply with the Safe Drinking Water Law and rules adopted under it. Under the bill, a public water system, prior to October 1, 2018, must submit an asset management plan that is acceptable to the Director in accordance with a schedule for submission established by the Director. After that date, a system must submit such a plan within 30 days after receiving a request to do so from the Director.

The bill requires a public water system to demonstrate capability by implementing a written asset management plan not later than October 1, 2018, unless required earlier by the Director or by a date specified by the Director if the Director has requested a system to submit a plan. A system must include in the plan all of the following information:

- (1) An inventory and evaluation of all assets;
- (2) Operation and maintenance programs;
- (3) An emergency preparedness and contingency planning program;
- (4) Criteria and timelines for infrastructure rehabilitation and replacement;
- (5) Approved capacity projections and capital improvement planning; and
- (6) A long-term funding strategy to support asset management plan implementation.

The bill authorizes the Director to take regulatory actions to improve and ensure the capability of a public water system that has failed to make the required demonstration, including denying a plan for the construction or installation of or substantial change in a public water system.

Drinking Water Protection Fund

(R.C. 6109.30)

The bill eliminates the prohibition in current law against the use of moneys in the Drinking Water Protection Fund to meet any state matching requirements that are necessary to obtain federal grants. Under continuing law, the Fund is used to administer state and federal safe drinking water laws, provide technical assistance to



public water systems, and conduct studies and support programs related to drinking water.

Emergency actions and confidentiality under water laws

(R.C. 6109.34 and 6111.05)

Water Pollution Control Law

The bill revises the provisions of the Water Pollution Control Law governing the Director's authority regarding emergency actions and confidentiality of information provided under the Law. The bill specifies that if an emergency requires the Director or the Director's authorized representative (hereafter Director unless otherwise specified) to respond to protect public health or safety or the environment, the Director may request either of the following to disclose records, reports, or information (hereafter information) necessary to respond to or investigate the emergency:

(1) Any person that is responsible for causing or allowing a spill, release, or discharge of a pollutant or contaminant into or on the environment; or

(2) Any person having knowledge of the components or chemical identity of the pollutant or contaminant.

Upon receiving the request, the person must submit the information without undue delay. If the person claims that any portion of the information contains trade secret information, the person must submit both a complete and a redacted version of the information. The person must mark the redacted version "public version" and redact any trade secret information.

Under the bill, the Director must consider any submitted information or any particular part of the information designated as a trade secret to be a trade secret and, generally as in existing law, manage that trade secret information as confidential (solely the Director's responsibility). The bill retains the stipulation that the confidentiality of trade secret information does not apply to data concerning the amounts of contents of discharges or the quality of receiving waters to which the Director has access under the Water Pollution Control Law. It eliminates the requirement that the Director give ten days' written notice to the person claiming trade secrecy before divulging trade secret information.

The bill prohibits the Director from disclosing any complete information designated as containing trade secret information. However, during an emergency that requires the Director to respond to protect public health or safety or the environment or during an investigation of such an emergency, the Director may share any of the



complete information with the owner or operator of a public or private water system that needs the information for any of the following purposes:

(1) Assessing exposure or potential exposure of persons or aquatic organisms to any component of or chemical in a pollutant or contaminant spilled, released, or discharged;

(2) Conducting or assessing sampling to determine exposure levels of various population groups or aquatic organisms to any such component or chemical; or

(3) Testing for any such component or chemical.

The bill requires the Director, prior to sharing any such complete information, to label and identify, to the extent practicable, any of that information as a trade secret. If the Director shares any of the information, the Director (solely the Director's responsibility) must notify the person that designated the trade secret information of that sharing as soon as practicable. Nothing in the above provisions precludes a person that designated trade secret information under the bill from requesting a confidentiality agreement with a recipient of the information.

During an emergency action taken to protect public health or safety or the environment, the owner or operator of a public or private water system may share complete information that has been designated as containing trade secret information with an agent, consultant, or representative of the owner or operator. An owner or operator, including an agent, consultant, or representative, that receives such information must maintain the confidentiality of the information and may use the information only for the purposes specified above.

The bill states that the sharing of information containing trade secret information does not change the status of the information as being designated a trade secret pursuant to the bill. In addition, the sharing does not subject the information to public disclosure.

The Director may disclose to a person that seeks to obtain information containing trade secret information the identity of the person that has designated that information as containing trade secret information. The person to whom the Director discloses that identity may contact the person that designated the trade secret information.

The bill retains current law under which, except with regard to trade secret information, any records, reports, or information obtained under the Water Pollution Control Law must be available for public inspection.



Safe Drinking Water Law

The bill establishes similar provisions in the Safe Drinking Water Law. It specifies that during an emergency that requires the Director to respond to protect public health or safety or the environment or during an investigation of such an emergency, the Director may share any complete information designated as containing trade secret information. A person that receives such information must maintain the confidentiality of the information and use it only for the purposes established in the bill as discussed above.

The sharing of complete information designated as containing trade secret information does not change the status of the information as being designated a trade secret pursuant to the bill. In addition, the sharing does not subject the information to public disclosure.

Phosphorous monitoring for a publicly owned treatment works

(R.C. 6111.03)

The bill requires a publicly owned treatment works with a design flow of one million gallons per day or more, or designated as a major discharger, to begin monthly monitoring of total and dissolved phosphorous not later than December 1, 2016. Additionally, not later than December 1, 2017, a publicly owned treatment works that is not subject to a phosphorus effluent limit of one milligram per liter as a 30-day average must complete and submit an optimization study that evaluates the publicly owned treatment works' ability to reduce phosphorous to that limit. Finally, the Director must modify NPDES permits to include those requirements.

Water Pollution Control Loan Fund

(R.C. 6111.036)

The bill, in addition to adding state agencies to the types of entities that may receive money from the existing Water Pollution Control Loan Fund under continuing law for the construction of publicly owned wastewater treatment works, expands the uses of the Fund by also allowing its use as follows:

- (1) For the construction, repair, or replacement of decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage;
- (2) For measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water;



(3) For measures to reduce the demand for publicly owned wastewater treatment works capacity through water conservation, efficiency, or reuse by any municipal corporation, other political subdivision, state agency, or interstate agency having territory in Ohio;

(4) For the development and implementation of watershed projects meeting applicable criteria established in the Federal Water Pollution Control Act;

(5) For measures to reduce the energy consumption needs of publicly owned wastewater treatment works by any municipal corporation, other political subdivision, state agency, or interstate agency having territory in Ohio;

(6) For reusing or recycling wastewater, stormwater, or subsurface drainage water;

(7) For measures to increase the security of publicly owned wastewater treatment works; and

(8) To any qualified nonprofit entity, as determined by the Director of Environmental Protection, to provide assistance to owners and operators of small and medium publicly owned wastewater treatment works for either of the following:

--To plan, develop, and obtain financing for eligible projects, including planning, design, and associated preconstruction activities; or

--To assist such treatment works in achieving compliance with the Federal Water Pollution Control Act.

The bill also revises the use of the Fund to pay the reasonable costs of administering the Fund and its governing statute by doing both of the following:

(1) Allowing the Fund to be used to pay the reasonable costs of conducting activities under the governing statute rather than administering that statute; and

(2) Removing the stipulation that cumulative expenditures from the Fund for administrative costs must be capped at 4% of the total amount of the capitalization grants received, and instead specifying that the reasonable costs of administering the Fund and conducting Fund-related activities cannot exceed one of the following amounts, whichever is greater, plus the amount of any fees collected by the state for that purpose regardless of the source:

--4% of the total amount of the capitalization grants received;

--\$400,000 per year; or



--0.2% per year of the current valuation of the Fund.

Under the bill, all loans made from the Fund must be fully amortized not later than 30 years after project completion rather than 20 years. The bill allows money credited to the Fund to be used for the awarding of principal forgiveness assistance under the Federal Water Pollution Control Act.

The bill removes the requirement that the Director must first determine that sewerage systems tributary to a publicly owned treatment works are not subject to excessive infiltration and inflow before providing financial assistance from the Fund for a treatment works project. It revises the requirement that, before providing financial assistance, the Director must first determine that the applicant will implement a user charge system to pay the operation, maintenance, and replacement expenses of the project by eliminating the stipulation that the user charge system be a proportional system.

Finally, for purposes of the statute governing the Fund, the bill expands the definition of "Federal Water Pollution Control Act" to include applicable portions of the American Recovery and Reinvestment Act of 2009 and the Water Resources Reform and Development Act of 2014.

Section 401 water quality certification; certified water quality professionals

(R.C. 6111.30)

The bill revises one of the requirements governing information to be included with an application for a section 401 water quality certification under the Water Pollution Control Law by requiring an application to include data sufficient to determine the existing aquatic life use, rather than a use attainability analysis, if the project involves a stream for which a specific aquatic life use designation has not been made.

The bill authorizes the Director to establish a program and adopt rules to certify water quality professionals to assess streams to determine existing aquatic life use and to categorize wetlands in support of applications for section 401 water quality certification and isolated wetland permits. It then requires the Director to use information submitted by certified water quality professionals in reviewing such applications.

The Director's rules must do all of the following:

(1) Provide for the certification of water quality professionals for the above purposes. Those rules must do all of the following:



--Authorize the Director to require an applicant to submit information necessary for the Director to assess a water quality professional's experience in conducting stream assessments and wetlands categorizations;

--Authorize the Director to establish experience requirements and to use tests to determine the competency of applicants;

--Authorize the Director to approve and deny applications based on applicants' compliance with the requirements established in rules;

--Require the Director to revoke certification of a water quality professional if the Director finds that the professional falsified any information on the application for certification regarding the professional's credentials; and

--Require periodic renewal of a water quality professional's certification and establish continuing education requirements for purposes of that renewal.

(2) Establish an annual fee to be paid by certified water quality professionals in an amount calculated to defray costs incurred by the EPA for reviewing applications and issuing certifications;

(3) Authorize the Director to suspend or revoke a certification if the water quality professional's performance has resulted in submission of improper documentation that is inconsistent with standards established in rules as discussed below;

(4) Authorize the Director to review documentation submitted by a certified water quality professional to ensure compliance with the rules establishing standards;

(5) Require a certified water quality professional to submit any documentation developed in support of an application for a section 401 water quality certification or an isolated wetland permit upon the Director's request;

(6) Authorize random audits by the Director of documentation developed or submitted by certified water quality professionals to ensure compliance with the rules establishing standards; and

(7) Establish technical standards to be used by certified water quality professionals in conducting stream assessments and wetlands categorizations.

Dredged material in Lake Erie and tributaries

(R.C. 6111.32)

Beginning July 1, 2020, the bill prohibits a person from depositing dredged material in the portion of Lake Erie that is within Ohio's jurisdictional boundaries or in the direct tributaries of Lake Erie within Ohio that resulted from harbor or navigation maintenance activities unless the Director of Environmental Protection has determined that the dredged material is suitable for one of the locations, purposes, or activities specified below and has issued a section 401 water quality certification authorizing the deposit. The Director, in consultation with the Director of Natural Resources, may determine that financial, environmental, regulatory, or other factors exist that result in the inability to comply with the above prohibition. After making that determination, the Director of Environmental Protection, through the issuance of a section 401 water quality certification, may allow for open lake placement of dredged material from the Maumee River, Maumee Bay Federal Navigation Channel, and Toledo Harbor.

The bill allows the Director to authorize the deposit of dredged material that resulted from harbor or navigation maintenance activities for any of the following:

- (1) Confined disposal facilities;
- (2) Beneficial use projects;
- (3) Beach nourishment projects if at least 80% of the dredged material is sand;
- (4) Placement in the littoral drift if at least 60% of the dredged material is sand;
- (5) Habitat restoration projects; and
- (6) Projects involving amounts of dredged material that do not exceed 10,000 cubic yards, including material associated with dewatering operations related to dredging operations.

Under the bill, the Director of Environmental Protection may consult with the Director of Natural Resources for purposes of the above provisions. The bill specifies that the Director of Environmental Protection has exclusive authority to approve the location in which dredged material is proposed to be deposited. The Director of Environmental Protection may adopt necessary rules.

Finally, the bill requires the Director of Environmental Protection, in order to ensure the regular and orderly maintenance of federal navigation channels and ports in Ohio, to endeavor to work with the U.S. Army Corps of Engineers on a dredging plan



that focuses on long-term planning for the disposition of dredged material consistent with the bill's requirements.

Enforcement of Water Pollution Control Law

(R.C. 6111.99)

The bill increases criminal penalties for certain violations of the Water Pollution Control Law and establishes culpable mental states regarding certain violations as follows:

Type of violation	The bill	Current law
Violations of provisions regarding prohibited acts of pollution, compliance with effluent standards, and right of entry for enforcement purposes.	<p>A purposeful violation is a felony punishable by a fine of not more than \$25,000, imprisonment for not more than four years, or both.</p> <p>Each day of violation is a separate offense.</p> <p>A knowing violation is a misdemeanor punishable by a fine of not more than \$10,000, imprisonment for not more than one year, or both.</p> <p>Each day of violation is a separate offense.</p>	A violation is punishable by a fine of not more than \$25,000, imprisonment for not more than one year, or both.*
Violations of provisions regarding submission of false information.	<p>A purposeful violation is a felony punishable by a fine of not more than \$25,000, imprisonment for not more than four years, or both.</p> <p>Each day of violation is a separate offense.</p> <p>A knowing violation is a misdemeanor punishable by a fine of not more than \$10,000, imprisonment for not more than one year, or both.</p> <p>Each day of violation is a separate offense.</p>	A violation is punishable by a fine of not more than \$25,000.*

Type of violation	The bill	Current law
Violations of orders, rules, or terms or conditions of a permit.	<p>A purposeful violation is a felony punishable by a fine of not more than \$25,000, imprisonment for not more than four years, or both.</p> <p>Each day of violation is a separate offense.</p> <p>A knowing violation is a misdemeanor punishable by a fine of not more than \$10,000, imprisonment for not more than one year, or both.</p> <p>Each day of violation is a separate offense.</p>	A violation is punishable by: a fine of not more than \$25,000, imprisonment for not more than one year, or both.*
Violations of provisions regarding waste minimization and treatment plans and fees per ton of waste.	<p>A knowing violation is a misdemeanor punishable by a fine of not more than \$10,000, imprisonment for not more than one year, or both.</p> <p>Each day of violation is a separate offense.</p>	A violation is punishable by a fine of not more than \$10,000.*
Violations of provision requiring approval for plans for disposal of industrial waste.	<p>A knowing violation is a misdemeanor punishable by: a fine of not more than \$10,000, imprisonment for not more than one year, or both.</p> <p>Each day of violation is a separate offense.</p>	A violation is punishable by a fine of not more than \$500.*
Violations of provision requiring approval of plans for installation of or changes in sewerage or treatment works.	<p>A violation is punishable by a fine of not more than \$10,000.*</p> <p>Each day of violation is a separate offense.</p>	A violation is punishable by a fine of not more than \$100.*

* No culpable mental state is specified. The default culpable mental state is recklessness.

The bill also provides that if a person is convicted of or pleads guilty to a violation of any provision of the Water Pollution Control Law, the court imposing the sentence may order the person to reimburse the state agency or a political subdivision for any actual response costs incurred in responding to the violation, including the cost of restoring affected aquatic resources or otherwise compensating for adverse impact to aquatic resources directly caused by the violation, but not including costs of prosecution.



Air Pollution Control Law technical correction

(R.C. 3704.04)

The bill corrects an erroneous cross-reference.

