
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 counties for 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 program, including requirements that it must be a decentralized program and must include a new car exemption.

Waste Management Fund

- Renames the Solid Waste Fund as 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 (EPA);
 - 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 was credited to that Fund to the Waste Management Fund, and retains the use of that money exclusively for administration and enforcement of the Construction and Demolition Debris Law and rules.
- Eliminates the Infectious Waste Management Fund and does the following:
 - Credits the money that was credited to it to the Waste Management Fund; and



--Requires, rather than authorizes, the Director of Environmental Protection to use that money exclusively to administer and enforce 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 wastes 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 the statute governing the state solid waste management plan;
 - 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 the statute governing the plan;
 - Researching and responding to questions posed by the Director; 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.

Source separated recyclable materials

- Authorizes source separated recyclable materials to be taken to any legitimate recycling facility rather than only to a facility designated by a solid waste management district.

Transfer of Storm Water Management Program

- Transfers, effective January 1, 2016, the administration of the Storm Water Management Program from DNR to EPA.
- Authorizes the Director of Environmental Protection, in effecting the transfer, to develop technical guidance and offer technical assistance to minimize wind or water erosion of soil and assist in compliance with permits for storm water management issued under the Water Pollution Control Law and rules.

Study of nutrient loading to Ohio watersheds

- Authorizes the Director to study, examine, and calculate nutrient loading to watersheds in the Lake Erie basin and the Ohio River basin from point and nonpoint sources.
- Requires the Director or the Director's designee, in order to evaluate nutrient loading contributions, to use available data, including data on water quality and stream flow and point source discharges into those watersheds.
- Requires the Director or designee to report and update the study's results to coincide with the release of the Ohio Integrated Water Quality Monitoring and Assessment Report.

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;



- The sunset of the annual discharge fees for holders of national pollutant discharge elimination system permits under the Water Pollution Control Law;
- The sunset of license fees for public water system licenses;
- A higher cap on the total fee due for plan approval for a public water supply system 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; 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 and Safe Drinking Water Laws.

Shale and clay products

- Prohibits a person from using, managing, or disposing of certain structural products created from clay or shale in a manner resulting in any of specified occurrences, including:
 - An exceedance of a water quality standard;
 - An exceedance of a primary or secondary maximum contaminant level established for safe drinking water purposes; or
 - An emission of an air contaminant.
- Generally prohibits a person from placing, accumulating, or storing for further processing structural products in specified locations, including within the boundaries of a sole source aquifer.
- Authorizes the Director or the Director's authorized representative to enter property to inspect and investigate conditions or examine records relating to alleged noncompliance with the above prohibitions and to apply for a warrant permitting the entrance and inspection or examination.
- Excludes certain shale and clay products from regulation as solid wastes under the Solid, Infectious, and Hazardous Wastes Law.

Isolated wetlands permits

- Revises the statutes governing permits for impacts to isolated wetlands by:
 - Defining "preservation" as the long-term protection, rather than protection in perpetuity, of ecologically important wetlands through the implementation of appropriate legal mechanisms to prevent harm to the wetlands; and
 - Requiring a permit applicant to demonstrate that the mitigation site will be protected long term rather than in perpetuity.

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.
- Requires the mitigation proposal contained in an application for a section 401 water quality certification to include the proposed real estate instrument or other available mechanism for protecting the property long term rather than the legal mechanism for protecting the property in perpetuity.
- 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.

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.



Extension of E-Check

(R.C. 3704.14)

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

--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 EPA Director request the DAS Director to enter into a new contract with a vendor to operate a program in counties where a program is federally mandated through June 30, 2019, with an option for the state to renew for a period of up to 24 months through June 30, 2021.

The act retains the requirement that the new contract ensure that the program achieves at least the same emissions reductions achieved under the contract that was extended. It also retains the requirement under which the DAS Director must use a competitive selection process when entering into a new contract with a vendor. Finally, the act retains all statutory requirements governing the program, including requirements that it be a decentralized program and 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 act renames the Solid Waste Fund as 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 was 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 wastes (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:

--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; and

(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:

--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, with regard to the use of money collected from the sources specified in item (5), above, the act requires, rather than authorizes, the Director to use that money for the specified purposes.

Solid waste transfer and disposal fees

(R.C. 3734.57 and 3745.015)

The act 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 wastes 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%, of the fee to the Hazardous Waste Facility Management Fund and 70¢, rather than 70%, 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 act), 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 act extends from June 30, 2016, to 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 act also extends from June 30, 2016, to 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.

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 act 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 certifying, 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 continuing 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 act deletes the requirement that the Solid Waste Management Advisory Council had to annually review implementation of solid waste management plans of solid waste management districts.

Under the act, the Governor, with the advice and consent of the Senate, must appoint the following 13 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) Six members, representing private industry, 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 act 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 act 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 act provides for the necessary transfer of assets and liabilities to the new Council and provides that legal actions initiated by either of the former Councils are to be continued by the new Council.

Source separated recyclable materials

(R.C. 343.01)

The act authorizes source separated recyclable materials, defined to mean materials separated from other solid wastes at the location where the materials are



generated for the purpose of recycling at a legitimate recycling facility, to be taken to any legitimate recycling facility rather than only to a facility designated in the plan of a solid waste management district or otherwise designated by a district. Under the act, a legitimate recycling facility is an engineered facility or site where recycling of material other than scrap tires is the primary objective of the facility.

Transfer of Storm Water Management Program

(R.C. 939.02 and 6111.03; Section 737.40)

The act transfers, effective January 1, 2016, the administration of the Storm Water Management Program from the Division of Soil and Water Resources in DNR to EPA. The act effects the transfer by doing, in part, both of the following:

(1) Authorizing the Director of Environmental Protection to develop technical guidance and offer technical assistance, upon request, for the purpose of minimizing wind or water erosion of soil and assist in compliance with permits for storm water management issued under the Water Pollution Control Law and rules adopted under it; and

(2) Stating that, subject to the layoff provisions of the law governing state and local personnel or the applicable collective bargaining agreement, all of the Division's employees relating to the Program are transferred to EPA and retain their same positions and all benefits accruing to them.

Under former law, the Chief of the Division of Soil and Water Resources administered the Program by adopting rules that established all of the following:

(1) Technically feasible and economically reasonable standards to achieve a level of management and conservation practices that would abate wind or water erosion of the soil or abate the degradation of water by soil sediment in conjunction with certain soil-disturbing activities on land used or being developed for nonfarm purposes as well as criteria for determination of the acceptability of such management and conservation practices;

(2) Procedures for administration of rules governing urban sediment pollution abatement; and

(3) Procedures for administering grants to soil and water conservation districts for urban sediment pollution abatement programs and requirements governing the execution of projects to encourage the reduction of erosion and sedimentation associated with soil-disturbing activities.



Additionally, former law authorized the Chief to recommend criteria and procedures for the approval of urban sediment pollution abatement plans and issuance of permits prior to any soil-disturbing activities of five or more contiguous acres of land owned by one person or operated as one development unit and to require implementation of such a plan.

Study of nutrient loading to Ohio watersheds

(R.C. 6111.03(U))

The act authorizes the Director to study, examine, and calculate nutrient loading to watersheds in the Lake Erie basin and the Ohio River from point and nonpoint sources. The study must determine comparative contributions by those sources and utilize the information derived from those calculations to determine the most environmentally beneficial and cost-effective mechanisms to reduce nutrient loading to those watersheds. In order to evaluate nutrient loading contributions, the Director or the Director's designee must conduct a study of the nutrient mass balance for both point and nonpoint sources in watersheds in the Lake Erie basin and the Ohio River basin using available data, including data on water quality and stream flow and on point source discharges into those watersheds. The Director or the Director's designee must report and update the study's results to coincide with the release of the Ohio Integrated Water Quality Monitoring and Assessment Report.

Extension of various air and water fees

Synthetic minor facility emissions fees

(R.C. 3745.11(D))

Under continuing 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 continuing law. Former law required the fee to be paid through June 30, 2016. The act extends the fee through June 30, 2018.



Water pollution control and safe drinking water fees

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

Under law revised in part by the act, a person applying for a plan approval for a wastewater treatment works is required to pay a fee of \$100 plus 0.0065% 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 0.002% of the estimated project cost, up to a maximum of \$5,000, on and after July 1, 2016. Under the act, the first tier fee is extended through June 30, 2018, and the second tier applies to applications submitted on or after July 1, 2018.

Continuing 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 former law, the fees were due by January 30, 2014, and January 30, 2015. The act 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, continuing law imposes a \$7,500 surcharge to the annual discharge fee for major industrial dischargers. Under prior law, the surcharge was required to be paid by January 30, 2014, and January 30, 2015. The act requires it to be paid annually by January 30, 2016, and January 30, 2017.

Under continuing 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 former law, the fee was due annually not later than January 30, 2014, and January 30, 2015. The act 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 continuing law. Under prior law, the fee for initial licenses and license renewals was required in statute through June 30, 2016, and had to be paid annually prior to January 31, 2016. The act 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 .0035% of the estimated project cost. Under law retained in part by the act, the fee cannot exceed \$20,000 through June 30, 2016, and \$15,000 on and after July 1, 2016. The act 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.

Continuing 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. Under law retained in part by the act, a schedule with higher fees applies through June 30, 2016, and a schedule with lower fees applies on and after July 1, 2016. The act 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 act also 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.

Water supply, wastewater systems operators

(R.C. 3745.11(O))

Continuing 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. Under law retained in part by the act, a higher schedule is established through November 30, 2016, and a lower schedule applies on and after December 1, 2016. The act extends the higher fee schedule through November 30, 2018, and applies the lower fee schedule beginning December 1, 2018.

Application fees – safe drinking water and water pollution control

(R.C. 3745.11(S))

Law retained in part by the act requires any person applying for a permit other than an 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 act extends the \$100 fee through June 30, 2018, and applies the \$15 fee on and after July 1, 2018.



Similarly, under law retained in part by the act, a person applying for an 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 act extends the \$200 fee through June 30, 2018, and applies the \$15 fee on and after July 1, 2018.

Drinking Water Protection Fund

(R.C. 6109.30)

The act eliminates the prohibition in former 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.

Shale and clay products

(R.C. 6111.051 and 6111.99)

The act prohibits a person from using, managing, or disposing of structural products created from clay or shale in a manner that results in any of the following: (1) a nuisance, (2) an exceedance of a water quality standard, (3) an exceedance of a primary or secondary maximum contaminant level established for safe drinking water purposes, (4) an emission of an air contaminant, or (5) a threat to public health or safety or the environment.

The act also prohibits a person from placing, accumulating, or storing for further processing such structural products in any of the following locations:

- (1) Within the boundaries of a sole source aquifer;
- (2) Within the boundaries of a source water protection area; or
- (3) Above an unconsolidated aquifer capable of yielding at least 100 gallons per minute.

The act stipulates that the prohibition regarding placement, accumulation, or storage does not apply to structural products that have been sold and distributed in the stream of commerce as desired commodities. The Director or the Director's authorized representative may enter private or public property to inspect and investigate conditions or examine records relating to alleged noncompliance with the above



prohibitions and may apply for a warrant permitting the entrance and inspection or examination.

By operation of continuing law, anyone who violates one of the above prohibitions must pay a civil penalty of not more than \$10,000 per day of violation. Additionally, the Attorney General, upon the request of the Director, must bring an action for an injunction against the person.⁶⁹ Finally, under the act and by operation of continuing law, 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, and 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. Each day of violation is a separate offense.

Under the act, structural products are products that are created from clay, shale, or a combination of clay and shale, are generated as a result of a manufacturing process that is designed to create products intended to form part of a building or other structure, and are no longer wanted for that originally intended use. Structural products include floor tiles, bricks, paving bricks, terra-cotta facing tiles, roofing tiles, clay pipes, chimney pipes, flue liners, and drainage tiles and pipes.

The Director may adopt rules establishing procedures and requirements that are necessary to administer the above provisions.

Exclusion from regulation as solid wastes

(R.C. 3734.01)

The act excludes from regulation as solid wastes under the Solid, Infectious, and Hazardous Wastes Law nontoxic, nonhazardous, unwanted fired and unfired, glazed and unglazed, structural products made from shale and clay products.

Isolated wetlands permits

(R.C. 6111.02 and 6111.027)

The act revises the definition of "preservation" as used in the statutes governing permits for impacts to isolated wetlands to mean the long-term protection, rather than protection in perpetuity, of ecologically important wetlands through the implementation of appropriate legal mechanisms to prevent harm to the wetlands. It then requires an applicant for coverage under an individual or general state isolated wetland permit to demonstrate that the mitigation site will be protected long term rather than in perpetuity.

⁶⁹ R.C. 6111.07 and 6111.09, not in the act.



Section 401 water quality certification; certified water quality professionals

(R.C. 6111.30)

The act revises two of the requirements governing information to be included with an application for a section 401 water quality certification under the Water Pollution Control Law. First, it requires 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. Next, it retains the requirement that an application contain a specific and detailed mitigation proposal, but requires the proposal to include the proposed real estate instrument or other available mechanism for protecting the property long term rather than the proposed legal mechanism for protecting the property in perpetuity.

The act 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:

(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.

Enforcement of Water Pollution Control Law

(R.C. 6111.99)

The act 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 act	Former 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</p>	A violation was punishable by a fine of not more than \$25,000, imprisonment for not more than one year, or both.*



Type of violation	The act	Former law
	<p>one year, or both.</p> <p>Each day of violation is a separate offense.</p>	
<p>Violations of provisions regarding submission of false information.</p>	<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>	<p>A violation was punishable by a fine of not more than \$25,000.*</p>
<p>Violations of orders, rules, or terms or conditions of a permit.</p>	<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>	<p>A violation was punishable by a fine of not more than \$25,000, imprisonment for not more than one year, or both.*</p>
<p>Violations of provisions regarding waste minimization and treatment plans and fees per ton of waste.</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>	<p>A violation was punishable by a fine of not more than \$10,000.*</p>
<p>Violations of provision requiring approval of plans for disposal of industrial waste.</p>	<p>A knowing violation is a misdemeanor punishable by a fine of not more than \$10,000,</p>	<p>A violation was punishable by a fine of not more than \$500.*</p>



Type of violation	The act	Former law
	imprisonment for not more than one year, or both. Each day of violation is a separate offense.	
Violations of provision requiring approval of plans for installation of or changes in sewerage or treatment works.	A violation is punishable by a fine of not more than \$10,000.** Each day of violation is a separate offense.	A violation was punishable by a fine of not more than \$100.*

* No culpable mental state was specified. The default culpable mental state was recklessness prior to the enactment of S.B. 361 of the 130th General Assembly.

** No culpable mental state is specified.

The act 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. 3704.05)

The act corrects an erroneous cross-reference.

