ENVIRONMENTAL PROTECTION AGENCY

OEPA policies (PARTIALLY VETOED)

- Revises the statute governing Ohio Environmental Protection Agency (OEPA) policies by prohibiting a policy from establishing any substantive duty, obligation, prohibition, or regulatory burden not imposed by a statute or rule, or from impairing any right or permitted conduct.
- Revises what constitutes a policy by stating that it includes any clarification, explanation, or interpretation of a statute or rule that is initiated or used by OEPA for regulatory purposes, but that is not a rule.
- Would have additionally revised the meaning of the term policy to include an elaboration based on OEPA authority or expectations (VETOED).
- States that:
  - OEPA may exercise quasi-legislative, quasi-judicial, permitting, enforcement, or other regulatory functions based only on an applicable statute or valid rule;
  - The application of a policy by OEPA in a manner that makes the policy the functional equivalent of, or a substitute for, a statute or rule, or that effectively alters or amends a statute or rule, or that assumes powers not plainly delegated to OEPA by statute, is prohibited;
  - Each policy must be displayed on, and searchable through, OEPA's website, and proposed policies must be advertised on the website; and
  - The first page of each policy must have printed on it a statement that "this policy is not law."

E-Check extension

- Continues the motor vehicle inspection and maintenance program (E-Check) in the counties where this program is implemented by:
  - Authorizing the OEPA Director to request the Director of Administrative Services (DAS Director) to extend the existing contract with the contractor that conducts the program, beginning July 1, 2023, for a period of up to 24 months; and
  - Requiring the OEPA Director, before the contract extension expires, to request the DAS Director to enter into a contract (with a vendor to operate a decentralized program) through June 30, 2027, with an option to renew the contract for up to 24 months through June 30, 2029.

Solid waste transfer and disposal fees

- Revises and reallocates solid waste transfer and disposal fees (while maintaining the total fees charged at $4.75 per ton) as follows:
  - Reduces a 90¢ per ton fee to 71¢ per ton and allocates the proceeds as follows:

- 11¢ per ton, rather than 20¢ per ton, to the Hazardous Waste Facility Management Fund, which must be used by OEPA to administer the hazardous waste program;
- 60¢ per ton, rather than 70¢ per ton, to the Hazardous Waste Clean-Up Fund, which must be used by OEPA to administer hazardous waste clean-up programs.

- Increases, from 75¢ per ton to 90¢ per ton, the fee that is deposited in the Waste Management Fund, which is used by OEPA to administer and enforce laws governing solid and infectious waste and construction and demolition debris;
- Reduces, from $2.85 per ton to $2.81 per ton, the fee that is deposited in the Environmental Protection Fund, which is used by OEPA to administer and enforce environmental protection laws;
- Maintains the 25¢ per ton fee that is used to provide assistance to soil and water conservation districts; and
- Imposes a new additional fee on the transfer or disposal of solid waste of 8¢ per ton, through June 30, 2026, which must be deposited in the National Priority List Remedial Support Fund created by the act.

- Extends the sunset on the other four solid waste transfer and disposal fees from June 30, 2024, to June 30, 2026.
- Requires the OEPA Director to use money in the National Priority List Remedial Support Fund for the state's removal action and remedial action and long term operation and maintenance costs or applicable cost shares for actions taken under the federal "Comprehensive Environmental Response, Compensation, and Liability Act."
- Authorizes the Director to use money in the new fund to contract with federal, state, or local government agencies, nonprofit organizations, colleges, and universities to carry out the responsibilities specified above on behalf of OEPA.

Construction and demolition debris (C&DD) fees

- Reallocates the 50¢ per cubic yard or $1 per ton disposal fee charged for construction and demolition debris (C&DD) by:
  - Reducing the portion of the fee (currently 37.5¢ per cubic yard or 75¢ per ton) that is for recycling and litter prevention by 2.5¢ per cubic yard and 5¢ per ton, respectively; and
  - Allocating the reduced amount (2.5¢ per cubic yard and 5¢ per ton) for waste management under the solid, hazardous, and infectious waste and C&DD laws.

Environmental fee sunsets

- Extends all of the following fees, which remain unchanged by the act, for two years:
  - The sunset on the annual emissions fees for synthetic minor facilities;

- The sunset of the annual discharge fees for holders of National Pollution Discharge Elimination System (NPDES) permits issued under the Water Pollution Control Law;
- The sunset of the $200 application fee for an NPDES permit and the decrease of that fee to $15 at the end of two years;
- 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 annual discharge fees paid by the holder of an NPDES permit and the surcharge paid by holders of NPDES permits that are major dischargers;
- The sunset of initial and renewal license fees for public water system licenses issued under the Safe Drinking Water Law;
- The levying of higher fees, and the decrease of those fees at the end of the two years, for plan approvals for public water supply systems under the Safe Drinking Water Law;
- 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 and examinations for certification as operators of water supply systems or wastewater systems under the Safe Drinking Water Law or the Water Pollution Control Law;
- 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; and
- Fees on the sale of tires.

Scrap tires

- Reduces the financial assurance amount that a person must submit to the OEPA Director to obtain a registration to transport scrap tires from at least $20,000 to $10,000 or less.
- Eliminates the (up to) $300 fee for registering and renewing a certificate to transport scrap tires.
- Exempts certain nonprofit, governmental, educational, and civil organizations from the scrap tire transporter registration requirements if the organization is conducting a scrap tire clean up event or community tire amnesty collection event that has received written concurrence from the OEPA.
- Expands the allowable uses of the Scrap Tire Grant Fund.
- Removes the requirement that a person who was issued an order by the Director to remove scrap tires do so within 120 days after the issuance of the order, and instead

requires that person to comply with each milestone established in the order within the timeframe specified in the order.

- Allows the Director, when performing a scrap tire removal action, to remove, transport, and dispose of any additional solid wastes or construction and demolition debris (C&DD) that was illegally disposed of on the land named in a removal order.
- Allows the Director to recover the costs associated with the solid waste and C&DD removal.
- Allows, instead of requires, the Director to record scrap tire removal costs at the county recorder of the county in which the accumulation of scrap tires was located.
- Allows the Director to record solid waste and C&DD removal costs at the county recorder of the county in which the accumulation of solid wastes and C&DD was located.

Original signatories to environmental covenant

- Authorizes an applicable agency that is party to an environmental covenant to determine that the signature of a person who originally signed the covenant is not necessary in order to amend or terminate it.
- Eliminates the need to provide notice to an original signatory specified above when an environmental covenant is subject to termination or amendment via an eminent domain proceeding.
- Retains the ability of an original signatory to an environmental covenant who is not a current owner of the subject property in fee simple to file a civil action to enforce the covenant.

Advanced recycling

- Exempts advanced recycling conducted at an advanced recycling facility from regulation under the Solid Waste Law, rather than solely exempting the process of converting post-use polymers and recoverable feedstocks using gasification and pyrolysis, as in prior law.
- Specifies that "advanced recycling" generally means a manufacturing process for the conversion of post-use polymers and recovered feedstocks into basic raw materials, feedstocks, chemicals, and other products.
- Specifies that an "advanced recycling facility" generally means a manufacturing facility that stores and converts post-use polymers and recovered feedstocks it receives using advanced recycling.
- Expands the processes by which post-use polymers and recovered feedstocks may be converted to include depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis, chemolysis, and other similar technologies.
- Retains pyrolysis and gasification as mechanisms by which post-use polymers and recovered feedstocks may be converted, but alters the meaning of those terms.

- Exempts legitimate recycling from solid waste disposal regulations.
- Exempts depositing of waste at a legitimate recycling facility or at an advanced recycling facility from open dumping penalties.
- Subjects disposing of scrap tires in a nonlicensed building, vehicle, or trailer to open dumping penalties.
- Makes additional definitional changes necessary for the expanded exemption established by the act.

Coal combustion residuals

- Requires the OEPA Director to establish a program for the regulation of coal combustion residuals (CCR) storage and disposal.
- Requires the Director to adopt rules for the program that are no more stringent than federal requirements governing CCR.
- Requires the rules to address siting criteria and ground water monitoring, financial assurance, design and construction, and closure and post-closure requirements governing CCR units, which generally include CCR landfills and CCR surface impoundments.
- Exempts CCR units from laws governing solid, hazardous, and infectious waste.
- Exempts CCR units from specific prohibitions under the Water Pollution Control Law, but allows the Director to require the owner or operator of a CCR unit to obtain a permit to install or an NPDES permit under that law.
- Authorizes the Director to cooperate with other local, state, or federal government entities to carry out the program purposes.

OEPA policies (PARTIALLY VETOED)

(R.C. 3745.30)

The act revises the statute governing OEPA policies. Specifically, it prohibits a policy from establishing any substantive duty, obligation, prohibition, or regulatory burden not imposed by a statute or rule, or from impairing any right or permitted conduct. It also declares that a policy has no force *or effect* of law, rather than declaring that it does not have the force of law as in former law. Further, the act states that:

1. OEPA may exercise quasi-legislative, quasi-judicial, permitting, enforcement, or other regulatory functions based only on an applicable statute or valid rule;

2. The application of a policy by OEPA in a manner that makes the policy the functional equivalent of, or a substitute for, a statute or rule, or that effectively alters or amends a statute or rule, or that assumes powers not plainly delegated to OEPA by statute, is prohibited;

3. Each policy must be displayed on, and searchable through, OEPA's website, and proposed policies must be advertised on the website; and

4. The first page of each policy must have printed on it a statement that "this policy is not law." Prior law required the statement to read "this policy does not have the force of law."

The act retains law stating that a policy must comply with the statutes and rules that exist at the time the policy is established, and that a policy may not establish a new requirement.

The act expands the meaning of the term policy to include any clarification, explanation, or interpretation of a statute or rule that is initiated or used by OEPA for regulatory purposes, but that is not a rule. Prior law stated that a policy only included a clarification or explanation of a statute or rule that is initiated by OEPA. The act also stipulates that a policy includes documents, manuals, advisories, protocols, forms, and other written or electronic materials provided to the public, a regulated party, or OEPA personnel regarding substance, requirements, procedures, or interpretation of a statute or rule. The act specifies that a policy does not include:

1. Any matters relating only to OEPA's internal management;

2. Any final adjudicatory order applicable only to specific parties; or

3. An emergency order.

Former law, eliminated by the act, also specified that a policy did not include educational guidelines, suggestions, or case studies regarding how to comply with a statute or rule or any document or guideline regarding the internal organization or operation of OEPA. The Governor vetoed a provision that would have stated that a policy included an elaboration based on OEPA authority or expectations.

E-Check extension

(R.C. 3704.14)

The act continues the operation of the motor vehicle inspection and maintenance program (E-Check) in the seven counties where it operates (Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit) by:

1. Authorizing the OEPA Director to request the Director of Administrative Services (DAS Director) to extend the existing contract (with the contractor that conducts the program) beginning July 1, 2023, for a period of up to 24 months; and

2. Requiring the OEPA Director, before the contract extension expires, to request the DAS Director to enter into a contract (with a vendor to operate a decentralized program) through June 30, 2027, with an option to renew the contract for up to 24 months through June 30, 2029.

The act retains the requirement that the new contract ensure that the program achieves at least the same emissions reductions achieved under the prior contract. It also retains the requirement that the DAS Director must use a competitive selection process when entering into a new contract with a vendor. The act retains all statutory requirements governing the program, including requirements that E-Check be a decentralized program (meaning tests do not take place at dedicated testing centers) and include a new car exemption for motor vehicles that are up to four years old.

Solid waste transfer and disposal fees

(R.C. 3734.57 and 3734.579)

The act revises and reallocates the fees collected on the transfer or disposal of solid waste and imposes one new fee, while maintaining a total per ton charge collected of $4.75 per ton. The table below illustrates the revisions to each fee and the imposition of one new fee:

Fee under prior law	Fee under the act
The 90¢ fee, collected until June 30, 2024, was allocated as follows: ▪ 20¢ per ton, to the Hazardous Waste Facility Management Fund, which must be used by OEPA to administer the hazardous waste program; and ▪ 70¢ per ton, to the Hazardous Waste Clean-Up Fund, which must be used by OEPA to administer hazardous waste clean-up programs.	The act extends the sunset of the fee to June 30, 2026, reduces the fee to 71¢ per ton, and allocates the proceeds as follows: ▪ 11¢ per ton to the Hazardous Waste Facility Management Fund; and ▪ 60¢ per ton to the Hazardous Waste Clean-Up Fund.
The 75¢ per ton fee, collected until June 30, 2024, is deposited in the Waste Management Fund, which is used by OEPA to administer and enforce laws governing solid and infectious waste and construction and demolition debris.	The act increases the fee to 90¢ per ton and extends the sunset of the fee to June 30, 2026.
The $2.85 per ton fee, collected until June 30, 2024, is deposited in the Environmental Protection Fund, which is used by OEPA to administer and enforce environmental protection laws.	The act reduces the fee to $2.81 per ton and extends the sunset of the fee to June 30, 2026.
The 25¢ per ton fee, collected until June 30, 2024, is used to provide assistance to soil and water conservation districts.	The act maintains the 25¢ fee and extends the sunset of the fee to June 30, 2026.
Not applicable: this fee was not collected under prior law.	The act imposes a new 8¢ per ton fee, until June 30, 2026, which must be deposited in the National Priority List Remedial Support Fund created by the act. The OEPA Director must use the Fund for the state's removal and remedial actions and long-term operation and maintenance costs or applicable cost shares for actions taken under the federal "Comprehensive Environmental Response, Compensation, and Liability Act" (CERCLA). The Director may use money in the

Fee under prior law	Fee under the act
	fund to contract with federal, state, or local government agencies, nonprofit organizations, colleges, and universities to carry out those responsibilities on behalf of OEPA.

Construction and demolition debris (C&DD) fees

(R.C. 3714.073)

The act reallocates one of the disposal fees charged for both construction and demolition debris (C&DD) and asbestos or asbestos-containing materials. It retains the overall amount of the fee (50¢ per cubic yard or $1 per ton), but reallocates the fee by:

1. Reducing the portion of the fee (previously 37.5¢ per cubic yard or 75¢ per ton) that is for recycling and litter prevention by 2.5¢ per cubic yard and 5¢ per ton, respectively; and

2. Allocating the reduced amount (2.5¢ per cubic yard and 5¢ per ton) to waste management under the solid, hazardous, and infectious waste and C&DD laws; and

3. Retaining the 12.5¢ per cubic yard or 25¢ per ton portion of the fee for soil and water conservation districts.

Environmental fee sunsets

(R.C. 3745.11 and 3734.901)

The act extends the period of validity for various OEPA-administered fees that remain unchanged under the laws governing air pollution control, water pollution control, safe drinking water, and scrap tires. The following table sets forth each fee, its purposes, and the time period OEPA is authorized to charge the fee under prior law and the act:

Type of fee	Description	Fee under prior law	Fee under the act
Synthetic minor facility: emission fee	Each person who owns or operates a synthetic minor facility must pay an annual fee in accordance with a fee schedule that is based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead. 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 source at the facility that include terms and conditions that	The fee was required to be paid through June 30, 2024.	The act extends the fee through June 30, 2026.

Type of fee	Description	Fee under prior law	Fee under the act
	lower the facility's potential to emit air contaminants below the major source thresholds established in rules.		
Wastewater treatment works: plan approval application fee	A person applying for a plan approval for a wastewater treatment works is required to pay one of the following fees depending on the date: ▪ A tier one fee of $100 plus 0.65% of the estimated project cost, up to a maximum of $15,000; or ▪ A tier two fee of $100 plus 0.2% of the estimated project cost, up to a maximum of $5,000.	An applicant was required to pay the tier one fee through June 30, 2024, and the tier two fee on and after July 1, 2024.	The act extends the tier one fee through June 30, 2026; the tier two fee begins on or after July 1, 2026.
Discharge fees for holders of NPDES permits	Each NPDES permit holder that is a public discharger or an industrial discharger with an average daily discharge flow of 5,000 or more gallons per day must pay an annual discharge fee based on the average daily discharge flow. There is a separate fee schedule for public and industrial dischargers.	The fees were due by January 30, 2022, and January 30, 2023.	The act extends the fees and the fee schedules to January 30, 2024, and January 30, 2025.
Surcharge for major industrial dischargers	A holder of an NPDES permit that is a major industrial discharger must pay an annual surcharge of $7,500.	The surcharge was required to be paid by January 30, 2022, and January 30, 2023.	The act extends the fee to January 30, 2024, and January 30, 2025.
Discharge fee for specified exempt dischargers	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.	The fee was due by January 30, 2022, and January 30, 2023.	The act extends the fee to January 30, 2024, and January 30, 2025.

Type of fee	Description	Fee under prior law	Fee under the act
License fee for public water system license	A person is prohibited from operating or maintaining a public water system without an annual license from OEPA. 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.	The fee for an initial license or a license renewal applied through June 30, 2024, and is required to be paid annually in January.	The act extends the initial license and license renewal fee through June 30, 2026.
Fee for plan approval to construct, install, or modify a public water system	Anyone who intends to construct, install, or modify a public water supply system must obtain approval of the plans from OEPA. The fee for the plan approval is $150 plus 0.35% of the estimated project cost. However, continuing law sets a cap on the fee.	The cap on the fee was $20,000 through June 30, 2024, and $15,000 on and after July 1, 2024.	The act extends the cap of $20,000 through June 30, 2026; the cap of $15,000 applies on and after July 1, 2026.
Fee on state certification of laboratories and laboratory personnel	In accordance with two schedules, OEPA charges a fee for evaluating certain laboratories and laboratory personnel. An additional provision states 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 $500 for each additional survey requested.	The schedule with higher fees applied through June 30, 2024, and the schedule with lower fees applied on and after July 1, 2024. The $500 additional fee applied through June 30, 2024.	The act extends the higher fee schedule through June 30, 2026; the lower fee schedule applies on and after July 1, 2026. The act extends the additional fee through June 30, 2026.
Fee for examination for certification as an operator of a water supply system or wastewater system	A person applying to OEPA to take an examination for certification as an operator of a water supply system or a wastewater system (class A and classes I-IV) must pay a fee, at the time an application is submitted, in accordance with a statutory schedule.	A schedule with higher fees applied through November 30, 2024, and a schedule with lower fees applied on and after December 1, 2024.	The act extends the higher fee schedule through November 30, 2026; the lower fee schedule applies on and after December 1, 2026.
Application fee for a permit (other than an	A person applying for a permit (other than an NPDES permit), a variance, or plan approval under the Safe Drinking	If the application was submitted through June 30,	The act extends the $100 fee through June 30,

Type of fee	Description	Fee under prior law	Fee under the act
NPDES permit), variance, or plan approval	Water Law or the Water Pollution Control Law must pay a nonrefundable fee.	2024, the fee was $100. The fee was $15 for an application submitted on or after July 1, 2024.	2026; the $15 fee applies on and after July 1, 2026.
Application fee for an NPDES permit	A person applying for an NPDES permit must pay a nonrefundable application fee.	If the application was submitted through June 30, 2024, the fee was $200. The fee was $15 for an application submitted on or after July 1, 2024.	The act extends the $200 fee through June 30, 2026; the $15 fee applies on and after July 1, 2026.
Fees on the sale of tires	A base fee of 50¢ per tire is levied on the sale of tires to assist in the cleanup of scrap tires. An additional fee of 50¢ per tire is levied to assist soil and water conservation districts.	Both fees were scheduled to sunset on June 30, 2024.	The act extends the fees through June 30, 2026.

Scrap tires

(R.C. 3734.74, 3734.822, 3734.83, and 3734.85)

The act reduces the financial assurance amount that a person must submit to the OEPA Director to obtain a registration to transport scrap tires from *at least $20,000* to *$10,000 or less*. Under continuing law, financial assurance may consist of a surety bond, letter of credit, or other financial assurance acceptable to the Director. The Director determines the exact amount by considering what is necessary to cover:

1. The costs of cleanup of tires improperly accumulated or discarded by the transporter; and

2. Liability for sudden accidental occurrences that result in damage or injury to persons or property or to the environment.

The act eliminates the (up to) $300 fee for registering and renewing a certificate to transport scrap tires. The fee was required to be deposited in the Scrap Tire Management Fund.

The act exempts from the scrap tire transporter registration requirements any of the following entities conducting a scrap tire clean up event or community tire amnesty collection event that has received written concurrence from the OEPA:

1. A nonprofit organization;

2. A federal, state, or local government;

3. A university; or

4. Other civic organization.

In addition, it allows the Scrap Tire Grant Fund to be used for both:

1. Scrap tire amnesty and cleanup events hosted or sponsored by a state agency or political subdivision (e.g., a county, municipal corporation, and township); and

2. A scrap tire amnesty and cleanup event hosted by a solid waste management district, in addition to an event sponsored by a district, as under prior law.

Under continuing law, the Scrap Tire Grant Fund may be used to support market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes. It also may be used to support scrap tire amnesty cleanup events sponsored by solid waste management districts.

The act removes the requirement that a person who has been issued an order by the Director to remove scrap tires do so within 120 days after the issuance of the order. Instead, it requires a person to comply with each milestone established in the order within the timeframe specified in the order. Under continuing law, if the person who has been issued the order fails to comply with the order, the Director may then perform scrap tire removal and the person is liable to the Director for the costs associated with the removal. The act allows the Director, when performing a scrap tire removal action, to also remove, transport, and dispose of any additional solid wastes or construction and demolition debris (C&DD) that was illegally disposed of on the land named in a removal order if the removal of the waste or debris is required by the order. Accordingly, the Director may recover the costs associated with the solid waste and C&DD removal.

The act allows, instead of requires, the Director to record scrap tire removal costs at the county recorder of the county in which the accumulation of scrap tires was located. It also allows the Director to record solid waste and C&DD removal costs at the county recorder of the county in which the accumulation of solid wastes and C&DD removed was located.

Original signatories to environmental covenant

(R.C. 5301.90 and 5301.91)

The act authorizes an applicable agency (for example, OEPA) that is party to an environmental covenant to determine that the signature of a person who originally signed the covenant is not necessary in order to amend or terminate it. Prior to the act, an environmental covenant could only be amended or terminated by consent and with the signature of all of the following:

- The applicable agency;
- The current owner in fee simple of the real property (unless waived by the agency);

- Each original signer of the covenant, unless:
  - The person waived in a signed record the right to consent; or
  - A court finds the person no longer exists or cannot be located.

As a result, the act eliminates the need to provide notice to an original signatory (who the agency determines is not necessary to amend or terminate the environmental covenant) when the environmental covenant is subject to termination or amendment via an eminent domain proceeding. However, the act retains the ability of an original signatory who is not a current owner of the subject property in fee simple to file a civil action to enforce the covenant.

Advanced recycling and legitimate recycling

(R.C. 3734.01)

The act exempts from solid waste regulation under the Solid Waste Law, advanced recycling of post-use polymers and recovered feedstocks conducted at an advanced recycling facility that is subject to OEPA regulations for air, water, waste, and land use.

Advanced recycling generally involves a manufacturing process for the conversion of post-use polymers and recovered feedstocks into basic raw materials, feedstocks, chemicals, and other recycled products. The conversion of these materials may be conducted via pyrolysis, gasification, depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis, chemolysis, and other similar technologies. An advanced recycling facility includes any manufacturing facility that stores and converts post-use polymers and recovered feedstocks for advanced recycling. However, an advanced recycling facility does not include any of the following:

1. A solid waste facility;
2. A solid waste disposal facility;
3. A solid waste management facility;
4. A solid waste processing facility;
5. A solid waste recovery facility;
6. An incinerator;
7. A waste-to-energy facility; or
8. A legitimate recycling facility.

Under the act, a legitimate recycling facility is any site, location, tract of land, installation, or building that (1) is used or intended to be used for processing, storing, or recycling solid waste that was generated off the premises of the facility, (2) at least 60% of the weight of solid waste received in any nine months during a rolling 12-month period is recycled monthly as shown by records, and (3) the receipt, storage, and processing activities do not cause a nuisance, do not pose a threat from vectors, or do not adversely impact public health, safety, or the environment, or cause or contribute to air or water pollution.

Under prior law, only the process of converting post-use polymers and recoverable feedstocks using gasification or pyrolysis was exempt from the Solid Waste Law. Thus, the act expands the processes by which these materials may be converted and still be exempt under that law.

The act specifies that a post-use polymer generally includes a plastic derived from industrial, commercial, agricultural, or domestic activities, and includes pre-consumer recovered materials and post-consumer materials that are processed at an advanced recycling facility or held at the facility prior to processing. Its intended use must be for use as a feedstock for the manufacturing of feedstocks, raw materials, other intermediate products, or final products using advanced recycling. Post-use polymers must be sorted from solid waste and other regulated waste, but may contain incidental contaminants or impurities. Additionally, post-use polymers cannot be mixed with solid waste or hazardous waste on site during processing at the advanced recycling facility and cannot be accumulated before being recycled. Prior law specified that post-use polymers are plastic polymers, derived from any source, that are not being used for their intended purpose. Prior law required the intended use for post-use polymers to be for manufacturing crude oil, fuels, other raw materials, and other products using pyrolysis or gasification. Thus, the act appears to expand the scope of what is considered a post-use polymer.

The act specifies that a recovered feedstock is a post-use polymer or nonwaste (as designated by USEPA) that has not been mixed with solid or hazardous waste on-site or during processing at an advanced recycling facility and has been processed for use as a feedstock in a gasification facility. A recovered feedstock does not include unprocessed municipal solid waste. Prior law did not include the specification that a recoverable feedstock cannot be mixed with solid or hazardous waste.

The act alters the meaning of pyrolysis and gasification as follows:

Process changes		
Process	**Prior law**	**The act**
Pyrolysis	A process through which post-use polymers are heated in the absence of oxygen until melted and thermally decomposed, and are then cooled, condensed, and converted into oil, fuel, feedstocks, diesel and gasoline blendstocks, chemicals, waxes, or lubricants.	A manufacturing process that melting and thermally decomposing post-use polymers may occur either noncatalytically or catalytically. The act expands the types of materials that may result from pyrolysis, including valuable raw materials, intermediate products, or final products, plastic monomers, chemicals, naphtha, waxes, or plastic and chemical feedstocks that are returned to economic utility in the form of raw materials and products.

Process changes		
Process	**Prior law**	**The act**
Gasification	A process through which feedstocks are heated and converted into a fuel gas mixture in an oxygen deficient atmosphere, and the mixture is converted into fuel, chemicals, or other chemical feedstocks.	A manufacturing process through which post-use polymers or recovered feedstocks are heated in an oxygen-controlled atmosphere and converted into syngas. Following that conversion, the process involves conversion into valuable raw, intermediate, and final products, including plastic monomers, chemicals, waxes, lubricants, coatings, and plastic and chemical feedstocks that are returned to economic utility in the form of raw materials or products.

The act further defines various terms for purposes of the expanded exemption established by the act. Those changes are as follows:

Terminology added by the act	
Term	**Explanation**
Depolymerization	A manufacturing process where post-use polymers are broken into smaller molecules such as monomers and oligomers or raw, intermediate, or final products, plastics and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, and coatings.
Solvolysis	A manufacturing process to make useful products (products produced through solvolysis, including monomers, intermediates, valuable chemicals, plastics and chemical feedstocks, and raw materials) through which post-use polymers are purified by removing additives and contaminants with the aid of solvents and are heated at low temperatures or pressurized. “Solvolysis” includes hydrolysis, aminolysis, ammonoloysis, methanolysis, and glycolysis.
Mass balance attribution	A chain of custody accounting methodology with rules defined by a third-party certification system that enables the attribution of the mass of advanced recycling feedstocks to one or more advanced recycling products.

Terminology added by the act	
Term	**Explanation**
Recycled plastic	Products that are produced from either of the following: 1. Mechanical recycling of pre-consumer recovered feedstocks or plastics, and post-consumer plastics; 2. The advanced recycling of pre-consumer recovered feedstocks or plastics, and post-consumer plastics via mass balance attribution under a third party certification system.
Recycled products	Products produced at advanced recycling facilities including, monomers, oligomers, recycled plastics, plastic and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, coatings, and adhesives. Products sold as fuel are not recycled products.
Legitimate recycling	Processing, storing, or recycling of solid waste and returning the material to commerce as a commodity for use in a beneficial manner, including as a raw ingredient in a manufacturing process or as a legitimate fuel that does not constitute disposal.

The act also expands the types of activities that are exempt from solid waste disposal regulations to include all of the following:

1. A disposition or placement of wastes that constitutes legitimate recycling; and

2. Advanced recycling or the storage of post-use polymers and recovered feedstocks prior to conversion through advanced recycling.

Prior law exempted the process of converting post-use polymers and recoverable feedstocks using gasification or pyrolysis.

Finally, the act expands the types of activities that are exempt from solid waste open dumping regulations (and thus not subject to open dumping penalties) to include the depositing of wastes at a legitimate recycling facility or advanced recycling facility. However, it subjects the disposal of scrap tires in a trailer, vehicle, or nonlicensed building to open dumping regulations and penalties.

Coal combustion residuals

(R.C. 3734.48)

The act requires the OEPA Director to establish a program for the regulation of the storage and disposal of coal combustion residuals (CCR). CCR includes fly ash, boiler slag, and flue gas desulfurization materials generated from burning coal for generating electricity by electric utilities and independent power producers.

To implement the program, the Director must adopt rules governing CCR storage, treatment, and disposal sites referred to as "CCR units." These units include any CCR landfill, CCR surface impoundment (e.g., a topographic depression or manmade excavation), including any lateral expansion of a CCR unit, or a combination thereof. A CCR landfill is an area of land that receives CCR (that is not a CCR impoundment), an underground injection well, a salt dome or salt bed formation, an underground or surface mine, or a cave. CCR landfills include sand and gravel pits and quarries that receive CCR, CCR piles (noncontainerized accumulations of solid CCR), and any practice that does not include the beneficial use of CCR.

The rules adopted by the Director must be no more stringent than federal requirements governing CCR and must address the following:

1. Siting criteria;

2. Ground water monitoring requirements;

3. Design and construction requirements;

4. Financial assurance requirements;

5. Closure and post-closure requirements; and

6. Any other requirement that the Director determines is necessary for the program, including any additional term definitions.

The act exempts CCR units from regulation under the laws governing solid, hazardous, and infectious waste. Further, the act exempts these units from prohibitions under the law governing water pollution control specifically related to the discharge of pollution into the waters of the state. However, it states that the Director may require the owner or operator of a CCR unit to obtain a water pollution control facility permit-to-install and a discharge permit (known as a National Pollutant Discharge Elimination [NPDES] permit) under the Water Pollution Control Law. Thus, a violation of any of the terms and conditions of those permits could result in criminal and civil penalties under that law.

The Director must prescribe and furnish any forms necessary to administer and enforce the program. Further, the Director may cooperate with and enter into agreements with other local, state, or federal government entities to carry out the purposes of the program.