

Environment and Natural Resources

Am. S.B. 2

Sens. Hite, Gardner, Manning, Yuko, Williams, Brown, Sykes, LaRose, Bacon, Balderson, Beagle, Burke, Dolan, Eklund, Hackett, Hoagland, Hottinger, Huffman, Kunze, Lehner, Obhof, O'Brien, Oelslager, Peterson, Schiavoni, Tavares, Thomas, Uecker

Reps. Landis, Leland, Schaffer, Anielski, Antonio, Arndt, Ashford, Boyd, Clyde, Craig, Duffey, Edwards, Fedor, Galonski, Gavarone, Green, Hambley, Holmes, Hughes, Kent, Lepore-Hagan, Manning, Miller, O'Brien, Patterson, Patton, Reineke, Rogers, Seitz, K. Smith, Strahorn, Sweeney, West

Effective date: October 6, 2017

Evaluation and cleanup of landfill facilities and properties

- Revises the authority of the Director of Environmental Protection to take actions to abate pollution or contamination at a hazardous waste disposal location.
- Applies requirements governing the abatement of pollution at hazardous waste disposal locations to solid waste and construction and demolition debris (C&DD) disposal locations.
- Authorizes the Director to spend money in the Environmental Protection Remediation Fund to conduct investigations at any solid waste or C&DD disposal location.
- With regard to an agreement with an owner of land on which cleanup activities will occur, specifies that an easement granted to the Director may authorize Environmental Protection Agency (OEPA) staff to enter on the land to construct, maintain, repair, remove, or make any other alteration or improvement.
- Specifies that methods of reimbursing the state for costs of cleanup activities under an agreement with a landowner may include assignment of royalties or proceeds from the sale of timber or other resources.
- Generally authorizes the Director to enter into an agreement with a property owner (other than the owner of the land that is subject to cleanup activities) for conducting cleanup activities, including obtaining soil that may be used on land where the activities will be conducted.
- Authorizes the Director to obtain an easement from a property owner who is not the owner of the land subject to cleanup activities to address the use of resources or materials for conducting the activities.

- Authorizes the Director, in the absence of an agreement for reimbursement, to record the unreimbursed costs of cleanup activities with the county recorder, and specifies that the recorded costs constitute a lien against the property.
- Eliminates the requirement that the Director use a particular competitive bidding process to contract for services related to the cleanup of land or a facility, thereby applying general competitive bidding procedures to those contracts.
- Declares that the state is immune from liability for any injury or damage resulting from specified cleanup or remediation activities, provided that the activities do not constitute reckless, willful, or wanton misconduct.
- Specifies that if the legislative or executive authority of a municipal corporation, county, or township has evidence that significant quantities of hazardous waste were disposed of in a C&DD facility within its boundaries, the authority may file a formal written request with the Director to survey the facility.

Construction and Demolition Debris Law

- Establishes requirements governing processing facilities in the C&DD Law.
- Specifies that a "processing facility" is, in part, a site, location, tract of land, installation, or building that is used or intended to be used for processing, transferring, or recycling C&DD that was generated off the premises.
- Requires the Director to adopt rules governing processing facilities, their inspection, and issuance of licenses and permits to install.
- Prohibits a person from operating a processing facility without an annual license issued by the board of health of the local health district, or from the Director if a health district is not approved to regulate C&DD facilities.
- Establishes requirements governing issuance of a permit to install and an annual license for a processing facility that are generally the same as those governing a permit to install and an annual license for a C&DD facility.
- Generally requires the owner or operator of a processing facility existing prior to the effective date of the Director's rules to register the facility and to obtain a license and permit to install for the facility after the Director adopts the rules.
- Requires applicants for an annual processing facility license to pay a \$100 application fee plus a \$650 license fee.

Waste Management Fund

- Revises the uses of money in the Waste Management Fund by eliminating the earmarking of sources of revenue for specified purposes and instead allowing Fund money to be used for any of those purposes.

Public water system capability

- Requires all public water systems to demonstrate technical, managerial, and financial capability by implementing an asset management program by October 1, 2018.
- Authorizes the Director to take certain actions to improve and ensure the capability of a public water system that has failed to make the required demonstration.
- Requires a public water system to incorporate specified information in its asset management program, including an inventory and evaluation of all assets and a long-term funding strategy to support program implementation.
- Requires a public water system, if requested by the Director, to submit a written description of the asset management program within 30 days after receiving the request.
- Authorizes the Director to request a public water system to revise or resubmit a written description of its asset management program if the system fails to submit an acceptable written description of the plan or otherwise fails to demonstrate technical, managerial, and financial capability.
- Authorizes OEPA to provide technical guidance to a public water system in preparing the asset management program or while addressing deficiencies noted in the program.
- Requires the Director to make available a template for small public water systems to assist in preparing an asset management program and to provide information about sources of funding.
- Specifies that a small public water system may meet the requirement to submit a written description of an asset management program by submitting the template or by including with the template a statement that the activities described in the template are being implemented.

Receivership of a public water system

- Authorizes the Director to petition a court of common pleas to appoint a receiver to take possession of and operate a public water system when both of the following apply:
 - The system serves fewer than 500 service connections; and
 - Conditions existing at the system present a threat to public health or welfare.
- Prohibits a court from appointing a receiver to operate a system owned and operated by a public entity or regulated by the Public Utilities Commission.

- Establishes requirements governing the contents of a petition for receivership, notice and hearings, appointment, powers, and duties of a receiver, and termination of a receivership.
- Requires a receiver to obtain court approval for any expenditure exceeding \$15,000.
- Prohibits contracts necessary to carry out the receiver's powers and duties that are valued at \$15,000 or more unless the receiver obtains at least two cost quotations from different vendors.
- Makes a receiver and the Director immune from liability for debts incurred by the owner or operator of a public water system.
- Requires the Director to provide technical assistance to an appointed receiver.

Public water systems exemptions

- Alters one criterion for a public water system to be exempt from the law governing safe drinking water – namely, that the system does not sell water to any person – by requiring the Director to determine whether the system sells or does not sell water.
- Subjects a public water system that is exempted from the law governing safe drinking water to the Director's plans and orders for the provision of safe drinking water in emergencies.

Financial assurance requirement for community water systems

- Requires the owners or operators of certain community water systems to provide financial assurance, in a form approved by the Director, when submitting plans to construct, install, or make a substantial modification, instead of requiring a cash deposit in escrow as in former law.
- Increases the maximum financial assurance from \$50,000 to \$100,000.

Discharge to a privately owned treatment works

- Specifies that the exclusion of the discharges of waste into a sewerage system to a treatment works from the law prohibiting polluting state waters does not authorize a discharge to a privately owned treatment works in violation of any permit conditions established under federal law.

Section 401 water quality certification

- Authorizes the Director to justifiably waive a section 401 water quality certification, pursuant to an appealable action, for any applicant for a federal license or permit to conduct any activity that may result in a discharge into state waters.
- Authorizes the Director, at the request or concurrence of a certification holder, to transfer or modify a certification.

- Authorizes the Director to revoke a certification if the certification's approval was based on false or misleading information.

Dredged material

- Prohibits a person from using, managing, or placing dredged material in any location unless authorized to do so in circumstances specified by the act.
- Defines dredged material as material excavated or dredged from a federal navigation channel during harbor or navigation maintenance activities.
- Applies existing civil and criminal penalties to the prohibition.
- Authorizes the Director to adopt rules governing the beneficial use of dredged material and the beneficial use of material excavated or dredged from adjacent or connected commercial maritime port facilities necessary to protect public health, safety, and the environment.

Certified water quality professionals

- Requires the Director to establish a program and adopt rules governing the certification of water quality professionals to assess streams and categorize wetlands in support of applications for section 401 water quality certifications and isolated wetland permits.
- Requires the Director to establish a multi-sector work group to assist in the development of the rules.
- Revises the Director's rule-making authority regarding audits of certified water quality professionals and establishes rule-making authority regarding the public disclosure of information concerning a certified water quality professional.
- Requires the Director to issue or deny a section 401 water quality certification within 90 days after receiving a complete application when a certified water quality professional conducts a stream or wetland assessment to support the application.
- Specifies that an applicant for a certification or an isolated wetlands permit is not required to use the services of a certified water quality professional.

Blast furnace and steel slag

- Exempts blast furnace slag and steel slag from certain requirements of the Water Pollution Control Law, such as requirements governing permits for discharges into the waters of the state.
- Prohibits the placement or management of blast furnace slag and steel slag in a manner that results in an exceedance of water quality standards, primary or secondary contaminant levels for ground water, any discharge prohibited by federal environmental law, or a threat to public health, safety, or the environment.

Ohio Lake Erie Commission

- Adds two members from the Great Lakes Protection Fund Board to the Ohio Lake Erie Commission.
- Requires the Commission, by July 31 of each odd-numbered year, to publish a Lake Erie Protection and Restoration Strategy describing the Commission's goals and prioritizing the uses of the Lake Erie Protection Fund and other funds for the following fiscal year.
- Establishes new duties for the Commission, such as serving as a repository and clearinghouse for public information related to Lake Erie and the Lake Erie basin and collecting and distributing that information at the Commission's discretion.
- Eliminates other Commission duties, such as recommending policies and programs to modify the coastal management program of Ohio.
- Authorizes the Commission to dissolve public advisory councils established to assist in implementing programs instituted under the laws governing the Commission, but retains the authority to establish the councils.
- Specifies that members of the Commission and members of a public advisory council may be reimbursed for actual and necessary expenses incurred in performing their official duties.

Lake Erie Protection Fund

- Eliminates several purposes for which the Commission could use the Lake Erie Protection Fund, such as supplementing state commitments to policies and programs pertaining to Lake Erie water quality and resource protection.
- Revises one of the uses of the Fund by specifying that it may be used for funding cooperative research, data gathering, or demonstration projects related to the priorities outlined in the Lake Erie Protection and Restoration Strategy.
- Allows grants from the Fund to be used for projects and programs designed to address priorities outlined in the Lake Erie Protection and Restoration Strategy.