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## ENVIRONMENTAL PROTECTION AGENCY

### Extension of E-Check

- Authorizes the extension of the motor vehicle inspection and maintenance program (E-Check) through June 30, 2025, in counties for which a program is federally mandated.
- Retains all statutory requirements governing the program, including the following:
  - The new contract must ensure that the program achieves at least the same emissions reductions as achieved by the program under the contract that was extended;
  - The Director of Administrative Services must use a competitive selection process when entering into a new contract with a vendor;
  - E-Check must be a decentralized program and include a new car exemption for motor vehicles up to four years old.

### Local air pollution control authority

- Modifies the list of agencies that qualify as a local air pollution control authority under the law governing air pollution by eliminating the Mahoning-Trumbull Air Pollution Control Authority, City of Youngstown.

### Best available technology requirements for air contaminants

- Eliminates the requirement that the Director establish methods of complying with best available technology (BAT) standards for air contaminant sources in rules and instead requires BAT methods for an air contaminant source to be established in the permit to install issued for the source.
- Alters the methods of complying with BAT requirements and applies BAT requirements only to air contaminants or precursors of air contaminants for which a National Ambient Air Quality Standard has been established under the federal Clean Air Act.
- Clarifies that certain air contaminant sources having the potential to emit ten tons or more of nitrogen oxide per year must meet any applicable reasonably available technology rule in effect as of December 22, 2007.

### Asbestos abatement

- Makes changes to the law governing asbestos abatement, including doing the following:
  - Expanding the scope of activities that are subject to regulation by applying the law to activities involving more than three linear or square feet of asbestos-containing material, rather than more than 50 linear or square feet as in current law;
  - Authorizing OEPA to take certain enforcement actions against a contractor licensee or certificate holder if either is violating or threatening to violate specified federal regulations adopted under the Federal Toxic Substances Control Act; and

- Eliminating the Director’s authority to approve, on a case-by-case basis, alternatives to the existing worker protection requirements for a project conducted by a public entity.

## **Open dumping**

- Specifies that “open dumping” under the law governing solid and infectious waste includes both of the following:
  - Depositing solid wastes or treated infectious wastes into an abandoned building or structure at a site that is not licensed as a solid waste facility;
  - Depositing untreated infectious wastes into any abandoned building or structure.

## **Removal of additional wastes at scrap tire sites**

- Specifically authorizes the Director to include in a scrap tire removal order a requirement to also remove any additional solid waste or construction and demolition debris (C&DD) unlawfully disposed of at the scrap tire site.
- Authorizes the Director to remove, transport, and dispose of any additional solid wastes or C&DD unlawfully disposed of at a scrap tire site when the Director performs a removal action for scrap tires.
- Specifies that a person to whom a removal order is issued is liable to the Director for the removal, disposal, or transportation costs associated with the additional solid waste or C&DD.
- Specifies that the Director may record such costs in the office of the county recorder where the additional wastes are located as a lien against the relevant property.
- Clarifies that a landowner may recover costs from a responsible party in an amount equal to the costs attributable to the responsible party.

## **Extension of various 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 NPDES 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;
- 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;
- The sunset of the fees levied on the transfer or disposal of solid wastes; and
- The sunset of the fees levied on the sale of tires.

## **Extension of E-Check**

(R.C. 3704.14)

The act authorizes the extension of the motor vehicle inspection and maintenance program (E-Check) in Ohio counties where this program is federally mandated by doing the following:

1. Authorizing the Director of Environmental Protection to request the Director of Administrative Services to extend the existing contract (with the contractor that conducts the program) beginning on June 30, 2019, for a period of up to 24 months through June 30, 2021;
2. Requiring the EPA Director, prior to the expiration of the contract extension above, to request the DAS Director to enter into a contract (with a vendor to operate a decentralized program) through June 30, 2023, with an option to renew the contract for a period of up to 24 months through June 30, 2025.

The bill 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 that the DAS Director must use a competitive selection process when entering into a new contract with a vendor. Last, the bill retains all statutory requirements governing the program, including requirements that E-Check be a decentralized program and include a new car exemption for motor vehicles up to four years old.

## **Local air pollution control authority**

(R.C. 3704.01 and 3704.111)

The bill modifies the list of agencies that qualify as a local air pollution control authority under the law governing air pollution by eliminating the Mahoning-Trumbull Air Pollution Control Authority, City of Youngstown. Current law requires the Director of Environmental Protection to enter into delegation agreements with local air pollution control authorities listed in current law. As part of the agreement, the local air pollution control authority agrees to perform on behalf of Ohio Environmental Protection Agency (OEPA) air pollution control regulatory services within the political subdivision represented by the local air pollution control authority.

## **Best available technology requirements for air contaminants**

(R.C. 3704.03)

Current law requires new or modified air contaminant sources to install best available technology (BAT) to control air contaminants. It also specifies that BAT requirements must be established in rules adopted by the Director and must be expressed only in one of the following methods that is most appropriate for the air contaminant source or source categories:

1. Work practices;
2. Source design characteristics or design efficiency of applicable air contaminant control devices;
3. Raw material specifications or throughput limitations averaged over a 12-month rolling period; or
4. Monthly allowable emissions averaged over a 12-month rolling period.

The bill eliminates the requirement that the Director establish the BAT methods in rules and instead requires the BAT method for an air contaminant source to be established in the permit to install (PTI) issued for the source. It further specifies that the methods apply only to air contaminants or precursors of air contaminants for which a National Ambient Air Quality Standard has been established under the federal Clean Air Act. Additionally, it alters the fourth BAT method specified above by allowing BAT requirements in a permit issued for an air contaminant source to be expressed as a rolling 12-month summation of the allowable emissions.

The bill also revises BAT methods for PTIs issued on or after August 3, 2009. Under current law, for PTIs issued on or after that date, any new or modified air contaminant source that has the potential to emit, taking into account air pollution controls installed on the source, ten or more tons per year of volatile organic compounds or nitrogen oxides must meet, at a minimum, the requirements of any applicable reasonably available control technology rule in effect as of January 1, 2006, regardless of the location. The bill instead clarifies that this requirement, as it applies to nitrogen oxides, must meet those requirements established in rule as of December 22, 2007.

## **Asbestos abatement**

(R.C. 3710.01, 3710.04, 3710.05, 3710.051, 3710.06, 3710.07, 3710.08, and 3710.12)

The bill makes the following changes to the law governing asbestos abatement, which is administered by OEPA:

1. Expands the scope of activities that are subject to regulation by applying the law to activities involving more than 3 linear or square feet of asbestos-containing material, rather than more than 50 linear or square feet as in current law. (For example, if an activity involves four linear feet, a person will now need to meet certain certification and training requirements that previously would not have applied.)
2. Adds the maintenance of asbestos-containing materials as one of the activities subject to regulation;

3. Adds the operation of asbestos-containing materials as one of the activities subject to regulation;
4. Authorizes OEPA to take certain enforcement actions against a contractor licensee or certificate holder if either is violating or threatening to violate specified federal regulations adopted under the Federal Toxic Substances Control Act;
5. Requires OEPA to deny a contractor license application if the applicant or any of the applicant's officers or employees has been found liable in a civil proceeding under any state or federal environmental law. (Currently, denial is limited to felony convictions.)
6. Eliminates the Director's authority to approve, on a case-by-case basis, alternatives to the existing worker protection requirements for a project conducted by a public entity;
7. Adds both of the following to the list of activities that require a person to be certified as an asbestos hazard evaluation specialist:
  - Inspections; and
  - Assessments of suspect asbestos-containing materials.
8. Adds the oversight of an asbestos hazard abatement activity to the list of activities that require certification as an asbestos hazard abatement project designer;
9. With regard to the certification of an asbestos hazard abatement air-monitoring technician (responsible for environmental monitoring or work area clearance air sampling), eliminates the exemption from certification that applies to industrial hygienists-in-training since the American Board of Industrial Hygiene no longer certifies those hygienists; and
10. Requires a contractor to notify the Director at least ten working days, rather than at least ten days as under current law, before beginning an asbestos hazard abatement project (the change makes Ohio law consistent with federal law).

## **Open dumping**

(R.C. 3734.01)

The bill specifies that "open dumping" under the law governing solid and infectious waste includes depositing solid wastes or treated infectious wastes into an abandoned building or structure at a site not licensed as a solid waste facility. The bill also specifies that "open dumping" includes depositing untreated infectious waste in any abandoned building or structure. Under current law, "open dumping" generally includes depositing solid wastes or treated infectious wastes into a water body or onto the surface of the ground at a site that is not licensed as a solid waste facility; or depositing untreated infectious waste into a water body or onto the ground. Open dumping is generally prohibited and is subject to criminal and civil penalties.

## **Removal of additional wastes at scrap tire sites**

(R.C. 3734.85)

The bill specifically authorizes the Director, when issuing a scrap tire removal order to a property owner, to also require the owner to remove any additional solid waste or construction

and demolition debris (C&DD) unlawfully disposed of at the property. Under current law, the Director may issue a scrap tire removal order when the Director determines that a scrap tire accumulation constitutes a danger to the public health or safety or to the environment.

The bill also generally authorizes the Director, when performing a removal action, to remove, transport, and dispose of any additional solid wastes or C&DD unlawfully disposed of at a scrap tire site if one or more of the following apply:

1. The property owner consents to the removal in writing;
2. The Director, in the removal order, required the removal of the additional wastes.

The bill specifies that a person who receives a removal order is liable to the Director for the removal, storage, processing, disposal, or transportation costs associated with additional solid waste or C&DD. The Director may record these costs, in the office of the county recorder where the property is located, as a lien against the property. Under current law, the costs associated only with the removal of scrap tires may be so recorded.

The bill clarifies that in a civil action for removal (and only removal) costs associated with scrap tires, a landowner may recover the portion, rather than the whole amount as in current law of costs from a responsible party in an amount equal to the portion of costs that the court determines is attributable to the responsible party.

## Extension of various fees

(R.C. 3745.11, 3734.57, and 3745.901)

The bill extends the time period for charging various OEPA fees under the laws governing air pollution control, water pollution control, and safe drinking water. The following table sets forth each fee, its purposes, and the time period OEPA is authorized to charge the fee under current law and the bill:

| Type of fee                            | Description  | Sunset under current law                              | Sunset under the bill                           |
|--|--|---|---|
| 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 lower the facility's potential to emit air contaminants below the major source | The fee is required to be paid through June 30, 2020. | The bill extends the fee through June 30, 2022. |

| Type of fee   | Description  | Sunset under current law  | Sunset under the bill  |
|---|--|---|--|
|   | thresholds established in rules adopted under continuing law.  |   |  |
| Wastewater treatment works: plan approval application fee | <p>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:</p> <p>--A tier one fee of \$100 plus 0.65% of the estimated project cost, up to a maximum of \$15,000; or</p> <p>--A tier two fee of \$100 plus 0.2% of the estimated project cost, up to a maximum of \$5,000.</p> | An applicant is required to pay the tier one fee through June 30, 2020, and the tier two fee on and after July 1, 2020. | The bill extends the tier one fee through June 30, 2022; the tier two fee begins on or after July 1, 2022. |
| 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, 2018, and January 30, 2019.  | The bill extends the fees and the fee schedules to January 30, 2020, and January 30, 2021.                 |
| 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, 2018, and January 30, 2019.  | The bill extends the fee to January 30, 2020, and January 30, 2021.  |
| 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, 2018, and January 30, 2019.  | The bill extends the fee to January 30, 2020, and January 30, 2021.  |

| Type of fee  | Description   | Sunset under current law   | Sunset under the bill  |
|--|---|--|--|
| 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 applies through June 30, 2020, and is required to be paid annually in January.   | The bill extends the initial license and license renewal fee through June 30, 2022.  |
| 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 .35% of the estimated project cost. However, current law sets a cap on the fee.   | The cap on the fee is \$20,000 through June 30, 2020, and \$15,000 on and after July 1, 2020.  | The bill extends the cap of \$20,000 through June 30, 2022; the cap of \$15,000 applies on and after July 1, 2022.   |
| Fee on state certification of laboratories and laboratory personnel                                | <p>In accordance with two schedules, OEPA charges a fee for evaluating certain laboratories and laboratory personnel.</p> <p>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 \$1,800 for each additional survey requested.</p> | <p>The schedule with higher fees applies through June 30, 2020, and the schedule with lower fees applies on and after July 1, 2020.</p> <p>The \$1,800 additional fee applies through June 30, 2020.</p> | <p>The bill extends the higher fee schedule through June 30, 2022; the lower fee schedule applies on and after July 1, 2022.</p> <p>The bill extends the additional fee through June 30, 2022.</p> |
| 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 applies through November 30, 2020, and a schedule with lower fees applies on and after December 1, 2020.   | The bill extends the higher fee schedule through November 30, 2022; the lower fee schedule applies on and after December 1, 2022.  |



| Type of fee   | Description  | Sunset under current law  | Sunset under the bill   |
|---|--|---|---|
| Application fee for a permit (other than an NPDES permit), variance, or plan approval | A 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 must pay a nonrefundable fee.   | If the application is submitted through June 30, 2020, the fee is \$100. If the application is submitted on or after July 1, 2020, the fee is \$15. | The bill extends the \$100 fee through June 30, 2022; the \$15 fee applies on and after July 1, 2022. |
| Application fee for an NPDES permit   | A person applying for an NPDES permit must pay a nonrefundable application fee.  | If the application is submitted through June 30, 2020, the fee is \$200. If the fee is submitted on or after July 1, 2020, the fee is \$15.         | The bill extends the \$200 fee through June 30, 2022; the \$15 fee applies on and after July 1, 2022. |
| Fees on the transfer or disposal of solid wastes                                      | A total of \$4.75 in state fees is levied on each ton of solid waste disposed of or transferred in Ohio.<br><br>The fees are used for administering the hazardous waste (90¢), solid waste (75¢), and other OEPA programs (\$2.85), and for soil and water conservation districts (25¢). | The fees apply through June 30, 2020.   | The bill extends the fees through June 30, 2022.  |
| 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.<br><br>An additional fee of 50¢ per tire is levied to assist soil and water conservation districts.   | Both fees are scheduled to sunset on June 30, 2020.   | The bill extends the fees through June 30, 2022.  |