
DEPARTMENT OF NATURAL RESOURCES

Water withdrawal permits

- Revises the law governing permits for withdrawal and consumptive use of state waters, particularly with respect to groundwater.
- Designates the Chief of the Division of Water Resources in the Department of Natural Resources (DNR) as the supervising authority for the statewide withdrawal and consumptive use permit program.
- Requires additional scientific data and information to be included in an application for a groundwater withdrawal permit, and requires the Chief, after receiving the information, to establish the geographic area of the projected cone of depression.
- Adds to the reasons for which the Chief may deny an application for a permit for withdrawal of groundwater.
- Requires certain groundwater withdrawal permittees to submit an annual report and certify compliance every five years.
- Authorizes the Chief to require aquifer monitoring and a decrease of groundwater withdrawals when water supply diminution occurs.
- Allows a permittee to request the Chief to amend a withdrawal permit when another groundwater user affects or has the potential to affect the projected cone of depression.
- Establishes two separate complaint procedures, one for property owners in the geographic area defined by the cone of depression and one for owners outside that area.
- Alters the reasons for which a permit may be suspended or revoked and streamlines the suspension and revocation procedures.
- Requires the Chief to provide written notice to the Ohio Environmental Protection Agency's (OEPA) Director when the Chief requires a permittee that is a public water system to decrease its withdrawal, or prior to revoking, suspending, or amending the system's withdrawal permit.
- Authorizes the OEPA Director to require a public water system to decrease its pumping rates under specified circumstances.
- Prohibits a person from installing a public water system well without an approved well siting application issued by the OEPA Director and specifies the information that an applicant must include in an application.
- Eliminates the law that exempted a person who provided specified information to OEPA under the Safe Drinking Water Law from the requirement to register with DNR a facility with the capacity to withdraw water in excess of 100,000 gallons per day.

- Prohibits a person from filing a false registration.

Hunting and fishing license fees

- Increases certain recreational hunting and fishing license and permit fees, but decreases nonresident youth deer permit and wild turkey permit fees.

Transfers from Waterways Safety and Wildlife funds

- Authorizes the Controlling Board, at the request of the DNR Director, to approve the expenditure of the federal revenue received in the Waterways Safety Fund or Wildlife Fund for purposes for which the federal revenue was granted.
- Eliminates the Controlling Board's authority to make transfers of nonfederal revenue received into those funds.

Scenic Rivers Protection Fund

- Authorizes DNR to collect donations for protection and enhancement of Ohio's scenic rivers and deposit them into the Scenic Rivers Protection Fund.

Eliminated funds

- Eliminates the "Ohio Geology" License Plate Fund, which consisted of contributions for "Ohio Geology" license plates, and transfers the money to the Geological Mapping Fund.
- Retains law specifying that the contributions must be used primarily for grants to state college and university geology departments, and secondarily for providing geological kits to state elementary and secondary schools.
- Eliminates the defunct Mine Safety Fund.

Oil and Gas Leasing Commission costs

- Authorizes the Geological Mapping Fund to be used for the administration of the Oil and Gas Leasing Commission.

Stream flow monitoring pilot

- Requires the DNR Director to establish a pilot program to study the environmental impact of oil and gas production operations on stream flow using continuous stream flow monitoring technology.

Oil and gas

- Prohibits a person from operating an oil and gas well without first registering with and obtaining an identification number from the Chief of the Division of Oil and Gas Resources Management.
- Requires an assignee or transferee of an oil and gas lease that includes a well to notify the Division of that assignment or transfer under certain circumstances.

- Specifies that when the assignee or transferee provides the notice to the Division, the assignee or transferee must attest to ownership of the lease and is not required to pay a notice fee.
- Eliminates the \$100 nonrefundable fees that had to be paid by the assignor or transferor of an oil and gas lease when notifying the Division of the assignment or transfer and when submitting an application for the assignment or transfer of a well.
- Includes an owner's entire interest in a tract of land in the proposed unit area, including any divided, undivided, partial, fee, or other interest, when calculating the percentage of land overlying a pool that is necessary to form a drilling unit.
- Alters the manner by which the quarterly oil and gas regulatory cost recovery assessment is calculated for well owners.
- Clarifies when an appeal of a Chief's order must be made to the Oil and Gas Commission by specifying that a person to whom the order is issued must make the appeal within 30 days after receiving the order.
- Eliminates the requirement that the Chief's order be sent via certified mail.

Water withdrawal permits

General changes

(Chapters 1521 and 1522)

Ohio has two permit programs governing the withdrawal and consumptive use of state waters. One program applies statewide and requires a permit for any withdrawal that will result in a consumptive use of 2 million gallons per day or more in any 30-day period. The other program applies solely in the Lake Erie basin. It requires a permit when a facility has a new or increased capacity for a withdrawal or consumptive use in the following amounts:

1. At least 2.5 million gallons per day from Lake Erie or a recognized navigation channel;
2. At least 1 million gallons per day from any river or stream or from groundwater in the Lake Erie watershed; or
3. At least 100,000 gallons per day from any river or stream in the Lake Erie watershed that is a high quality water.

The two programs overlap. Thus, if a withdrawal or consumptive use by a facility in the Lake Erie basin is below the thresholds specified in (1) above, the facility may still require a permit under the statewide program if the withdrawal and consumptive use exceeds the threshold under that program. According to an official from DNR, as of June 30, 2019, no person has ever applied for or received a permit under the Lake Erie basin program. However, there have been numerous permits issued under the statewide program.

The act alters the law governing the two programs, particularly with respect to permits for withdrawal and consumptive use of groundwater. It also designates the DNR Chief of the

Division of Water Resources with implementing the statewide program (along with an existing water diversion program) instead of the DNR Director, as under prior law. It retains the Chief as the implementing authority of the withdrawal and consumptive use permit program that applies solely in the Lake Erie basin.

Permit applications for groundwater withdrawals

(R.C. 1521.23, 1521.24, 1521.25, 1521.26, 1521.27, 1521.28, 1522.12, 1522.121, 1522.122, 1522.123, 1522.124, and 1522.125)

The act requires an applicant for a groundwater withdrawal and consumptive use permit under either program to submit the following scientific data and information along with the application:

1. A hydrologic map consisting of a single map using the most recent U.S. Geological Survey 7.5 minute topographic maps at a scale of 1:24,000 as a base or other approved format that shows specified information;

2. A hydrogeologic description that must include specified information and that is in sufficient detail to determine the cone of depression, which is a depression or low point in the water table or potentiometric surface of a body of groundwater that develops around a location from which groundwater is being withdrawn;

3. A steady state groundwater model that defines the projected cone of depression; and

4. Alternative water supply information (in the event that the permittee causes a disruption or diminution of someone else's water supply).

Once the Chief receives the permit application, the Chief must use the submitted data to establish the geographic area defined by the ten-foot contour line of the projected cone of depression (contour lines show variation in the water levels within the cone of depression). The Chief may designate a different contour line (other than a ten-foot line) based on water resource availability, seasonal variations, other water users in the hydrologic study area, or other groundwater data available.

Permit approval or denial; exemption

(R.C. 1521.29 and 1522.12)

Continuing law allows the Chief to deny a withdrawal and consumptive use permit for various reasons, including impacts to public water rights, ineffective conservation practices, and impacts to public welfare. With regard to groundwater withdrawals, the act authorizes the Chief to deny a permit if the withdrawal will cause a significant lowering of groundwater levels, an overdrafting of an aquifer, a diminution of water available to existing wells, water usage interruptions, or irreparable damage to an aquifer.

The act also requires the Chief to approve or deny a permit application under the statewide program within 90 days (rather than a time established by rule as under prior law). It also exempts facilities that hold a surface or in-stream mining permit from permitting requirements under the statewide program. (That exemption already applies under the Lake Erie basin program.)

Requirements for permit holders

(R.C. 1521.30, 1521.31, and 1522.19)

The act requires a permittee under the statewide program, at least once every five years, to certify that the facility for which the permit has been issued is in compliance with the permit. The Chief may require a permittee who withdraws groundwater under either program to:

1. Continuously monitor aquifer water levels; and

2. Decrease withdrawals and submit a revised groundwater model if the current model conflicts with reported groundwater data or an investigation shows that the withdrawals have caused a diminution of a person's water supply.

A permittee submitting a revised groundwater model must use additional data that reflects the permittee's impact on groundwater. Based on the revised groundwater modeling, the Chief may amend the permit to reduce the withdrawal amount or establish a revised cone of depression. A permittee also may request the Chief to amend a permit when another groundwater user affects or has the potential to affect the permittee's projected cone of depression.

Enforcement

(R.C. 1521.29, 1521.32, 1521.33, and 1522.20)

The Chief may suspend or revoke a statewide or Lake Erie basin permit for specified reasons, provided the Chief complies with certain due process procedures. The act adds to the reasons for which the Chief may suspend or revoke a permit by allowing the Chief to do so if a withdrawal or consumptive use will result in a significant lowering of water levels, aquifer overdrafting, or irreparable aquifer damage. It also allows suspensions or revocation of a Lake Erie basin permit if a withdrawal or consumptive use will endanger public health, safety, or welfare. The act eliminates the Chief's authority to revoke a permit under the statewide program without a prior hearing because there has been a determination that the quantity of water consumption exceeds the permitted amount. The Chief may still revoke a permit for that reason, but the permittee must have a hearing, if requested, prior to the revocation. Finally, the act streamlines the procedures for suspension and revocation of a permit, but the procedures remain largely consistent with prior law.

Complaints

(R.C. 1521.35, 1521.36, 1522.24, and 1522.25)

The act authorizes a property owner in the geographic area defined by the cone of depression to submit a complaint alleging that a permittee has caused a diminution of groundwater supply. It creates a rebuttable presumption that the permittee is the cause of the diminution within that geographic area. Upon complaint, the permittee must provide an alternative water source to the property owner until the permittee rebuts the presumption. If the permittee fails to rebut the presumption, the permittee must continue to supply the property owner with an alternative water source.

The act creates a similar complaint procedure for a property owner located outside the geographic area of the cone of depression. It requires the Chief to investigate and issue the results of the investigation. However, it does not require the Chief to take any action based on the results of the investigation. The act specifies that the property owner outside the cone of depression may commence a civil action against the permittee to resolve the diminution.

Other provisions

(R.C. 1521.16, 1521.29, 1521.34, and 1522.23)

Under continuing law, a person who owns a facility that has the capacity to withdraw state waters exceeding 100,000 gallons per day must register the withdrawal with DNR. The act prohibits a person from filing a false registration. It also eliminates a provision of law that exempted a person from registering when the person provided specified information to OEPA under the Safe Drinking Water Law.

Public water systems

(R.C. 6109.071 and 6109.072)

The act requires the Chief to provide written notice to the OEPA Director when the Chief requires a permittee that is a public water system to decrease its withdrawal, or prior to revoking, suspending, or amending the system's withdrawal permit. The OEPA Director may require a public water system to decrease its pumping rates if either:

1. The public water system is pumping at a rate that is drawing or has the potential to draw contaminants into the public water system or a public water system well; or
2. The Chief revokes, suspends, or amends a withdrawal permit or requires a decrease in withdrawal.

The act also prohibits a person from installing a public water system well without an approved well siting application issued by the Director. It then specifies the information (such as a general plan or alternative drinking water options) that an applicant must include in the application. The Director may adopt rules regarding well siting applications.

Hunting and fishing license fees

(R.C. 1533.10, 1533.11, 1533.111, 1533.112, 1533.32, and 1533.321; Section 715.10)

The act increases the fees for the following recreational hunting and fishing licenses and permits:

- An annual fishing license fee from \$18 to \$24 for an Ohio resident;
- An annual fishing license fee from \$18 to \$24 for a nonresident who is a resident of a state with which Ohio has an agreement to charge resident fee rates (reciprocal state);
- A three-day tourist fishing license from \$18 to \$24 for a nonresident who is not a resident of a reciprocal state;
- A one-day fishing license fee from \$10 to \$13 (55% of the three-day tourist fishing license);

- An annual deer permit fee from \$23 to \$30 for an Ohio resident;
- An annual youth deer permit fee from \$11.50 to \$15 for an Ohio resident under 18;
- An annual wild turkey permit fee from \$23 to \$30 for an Ohio resident; and
- An annual wild turkey permit fee from \$28 to \$37 for a nonresident.

The act decreases the fees for both of the following nonresident youth permits:

- An annual deer permit fee from \$74 to \$15 for a nonresident youth under 18 (the same as Ohio resident youths under the act); and
- An annual wild turkey permit fee from \$28 to \$15 for a nonresident youth under 18 (the same as Ohio resident youths under the act).

It also specifies that, except for the \$9 nonresident youth hunting license fee, the annual fee for nonresidents applying for a hunting license, fishing license, or deer permit through December 31, 2019, is the fee specified in the fee schedule established in H.B. 49 of the 132nd General Assembly as follows:

License or permit type	Cost in 2019
Hunting license – nonresident, and not a resident of a reciprocal state	\$157
Apprentice hunting license – nonresident, and not a resident of a reciprocal state	\$157
Fishing license – nonresident, and not a resident of a reciprocal state	\$46
Deer permit – nonresident	\$57

Transfers from Waterways Safety and Wildlife funds

(R.C. 131.35)

The Waterways Safety Fund or Wildlife Fund may receive federal revenue that is granted for specific purposes. The act authorizes the Controlling Board, at the request of the DNR Director, to approve the expenditure of that federal revenue, but only for those specific purposes. Former law put stipulations on the expenditure of federal revenue received by the state.

Scenic Rivers Protection Fund

(R.C. 4501.24 and 4503.56, not in the act)

The act authorizes DNR to receive donations for the Scenic Rivers Protection Fund. The donations must be used to help finance conservation efforts, education, corridor protection,

restoration, and habitat enhancement and clean-up projects along wild, scenic, and recreational river areas. Prior to the act, the fund's only source of revenue came from contributions collected from the sale of "Scenic Rivers" license plates. The contribution amount is \$40 each time a person voluntarily applies for or renews a motor vehicle registration for those license plates.

"Ohio Geology" License Plate Fund

(R.C. 1505.09 and 4503.515, not in the act; R.C. 1505.12 and 1505.13, repealed)

The act eliminates the "Ohio Geology" License Plate Fund and transfers the money directed to it to the Geological Mapping Fund. The act does not change the contribution amount for "Ohio Geology" license plates or the purposes of the contribution, only the fund into which the contributions are directed.

"Ohio Geology" license plates have a \$15 annual contribution, the proceeds of which are used primarily for annual grants to state college and university geology departments for research conducted at locations of geological interest in the state. The Director also may use contributions to provide materials such as rock and mineral kits to elementary and secondary schools to assist students in geological studies. The license plates cannot currently be requested in a new application for motor vehicle registration. They can only be renewed because fewer than 25 individuals currently have and consistently renew them.

Mine Safety Fund

(R.C. 1561.24, repealed, makes conforming changes in R.C. 1561.011)

The act eliminates the Mine Safety Fund. Prior law authorized the transfer of money to the fund from the Coal-Workers Pneumoconiosis Fund by the Administrator of Workers' Compensation for mine safety purposes. However, the Mine Safety Fund had not received any transfers since 2012.

Oil and Gas Leasing Commission costs

(R.C. 1505.09)

The act authorizes the existing Geological Mapping Fund, which is administered by the Chief of the Division of Geological Survey, to be used for the administration of the Oil and Gas Leasing Commission. Prior to the act, only the Oil and Gas Leasing Commission Administration Fund could be used for that purpose. However, that fund does not have any money in it. Notably, the Chief of the Division of Geological Survey serves as the chairperson of the Oil and Gas Leasing Commission, which is responsible for leasing state property for oil and gas development.

Stream flow monitoring pilot

(Section 715.20)

The act requires the DNR Director to establish a pilot program to study the environmental impact of oil and gas production operations on stream flow using continuous stream flow monitoring technology. The study must conclude by December 31, 2020.

The Director must adopt policies and procedures to administer and implement the program. After the conclusion of the study, the Director must submit a report of the study's findings to the General Assembly.

Oil and gas

Registration and identification; transfer and assignment

(R.C. 1509.31)

The act prohibits a person from operating an oil and gas well without first registering with and obtaining an identification number from the Chief of the Division of Oil and Gas Resources Management. Thus, if a person transfers or assigns a well to another person, that other person (the assignee or transferee) is prohibited from operating the well until the assignee or transferee registers and obtains the identification number.

It also alters the procedures associated with the assignment or transfer of an oil and gas lease. Under continuing law, whenever the entire interest of an oil and gas lease is assigned or otherwise transferred, the assignor or transferor (person who sold or transferred the lease) must notify the holders of the royalty interests and, if a well or wells exist on the lease, the Division. The notice must both:

- Include specified information, including the name and address of the assignee or transferee; and
- Be sent on a form prescribed by the Division by certified mail, return receipt requested, within 30 days of the assignment or transfer.

Under prior law, the assignor or transferor also had to submit a \$100 nonrefundable fee along with the notice. The act eliminates the \$100 fee. (It also eliminates a \$100 nonrefundable application fee that the assignor or transferor of a well had to pay.)

The act also requires an assignee or transferee of an oil and gas lease to notify the Division of the assignment or transfer if (1) the assignor or transferor fails to submit the notice, and (2) the assignor or transferor is deceased, dissolved, cannot be located, or is otherwise incapable of complying with the notification requirement. When the assignee or transferee is the individual or entity providing the notice, the assignee or transferee must attest to ownership of the lease. The Division cannot charge a fee when the assignee or transferee submits the notice.

Oil and gas regulatory cost recovery assessment

(R.C. 1509.50)

Under continuing law, the owner of an oil and gas well is subject to an oil and gas cost recovery assessment that is paid quarterly and is based on the amount of oil and gas produced by the well. The act alters the manner in which the oil and gas regulatory cost recovery assessment is calculated, effective on and after January 1, 2020, from a formula to a flat rate assessment as follows:

H.B. 166 flat rate assessment (effective January 1, 2020)	
Natural gas produced	Oil produced
0.5¢ per 1,000 cubic feet of natural gas for all of the wells of the owner	10¢ per barrel of oil for all of the wells of the owner

Until January 1, 2020, the assessment is calculated using the following formula:

Calculation of the assessment	
10¢ per barrel of oil for all the wells of the owner	
+	
\$0.5¢ per 1,000 cubic feet of natural gas for all of the wells of the owner	
+	
Severance tax levied on each severer for all of the wells of the owner	
TOTAL	
If the TOTAL is greater than the sum of \$15 for each well owned by the owner, the assessment is <u>the sum of 10¢ per barrel of oil for all of the wells of the owner and \$0.5¢ per 1,000 cubic feet of natural gas for all of the wells of the owner.</u>	If the TOTAL is less than the sum of \$15 for each well owned by the owner, the assessment is <u>the sum of \$15 for each well owned by the owner minus the amount of the severance tax levied on each severer for all of the wells of the owner.</u>

Unit operation calculation

(R.C. 1509.28)

Under continuing law, the owners of 65% of the land area overlying a pool (underground reservoir of oil, gas, or both) may apply to the Chief to consider the need for the operation of the entire pool or part of a pool as a unit. The act specifies that when calculating the land area necessary to form a drilling unit by unit operation, an owner's entire interest in each tract in the proposed unit area, including any divided, undivided, partial, fee, or other interest in the tract, must be included to the fullest extent of that interest.

Oil and gas appeal process

(R.C. 1509.36)

Under continuing law, any person adversely affected by an order of the Chief may appeal the order to the Oil and Gas Commission. However, former law specified that the appeal had to be filed within 30 days after the date on which *the appellant* received notice of the order

by certified mail. Former law presumed that the appellant was the person who received the order. Thus, the act clarifies that the person *to whom the order is issued* must file an appeal to the Commission within 30 days after receiving the order. It provides that any other adversely affected person must file the appeal within 30 days after the date of the order. It also eliminates the requirement that notice of the Chief's order had to be sent to the appellant via certified mail.