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## ENVIRONMENTAL PROTECTION AGENCY

### Fees

- Extends all of the following for two years:
  - The sunset of the annual emissions fees for synthetic minor facilities;
  - The levying of higher fees, and the decrease of those fees at the end of the two years, for applications for plan approvals for wastewater treatment works;
  - The sunset of the annual discharge fees for holders of National Pollutant Discharge Elimination System (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.
- Eliminates the following fees:
  - A \$15 application fee for a registration certificate necessary for certain scrap tire collection facilities;
  - A \$15 application fee for a permit, or variance, or plan approval under the Solid and Hazardous Waste Law; and
  - The \$100 fee for renewal of coverage under an NPDES general permit for a household sewage treatment system.
- Eliminates a non-Title V air contaminant source fee schedule that only applied from January 1, 1994, to December 31, 2003.
- Reduces, from \$1,800 to \$500, the additional survey fee that laboratories must pay to the Ohio Environmental Protection Agency (OEPA) to add analysts or additional accepted analytical techniques between triennial renewal surveys.

- Corrects the definition of “MF” that is associated with lab fees by changing it from “microfiltration” to “membrane filtration.”

### **Scrap tires removed from “no fault” sites**

- Increases, from 5,000 to 10,000, the number of scrap tires that can be removed from a person’s property by OEPA at no cost to the property owner if certain conditions apply (i.e., placement of scrap tires was not the fault of the property owner).
- Allows the OEPA Director to increase the 10,000 scrap tire threshold.

### **Lead and copper notification rules**

- Eliminates a requirement that the Director adopt rules setting specific administrative penalties that apply to community or nontransient noncommunity water systems for violations of notice requirements regarding lead and copper laboratory results.
- Authorizes the Director instead to assess the administrative penalties under existing statutory guidelines that apply to other violations of the Safe Drinking Water Law.
- Generally shifts reporting and other requirements regarding lead and copper contamination from statute to a rules-based system administered by the Director.
- Increases the timeframe (from two business days to not more than 30 business days after the receipt of lab results) within which the owner or operator of a community or nontransient noncommunity water system must notify residents when a tap sample does not exceed the applicable lead threshold.
- Requires the owner or operator of those systems to update and resubmit maps according to a schedule determined by the Director but no less frequently than required under the federal Safe Drinking Water Act, rather than every five years as in prior law.
- Eliminates a requirement that the Director provide financial assistance from the Drinking Water Assistance Fund to community and nontransient noncommunity water systems for the purpose of fulfilling the notice and mapping requirements.

### **Certified and accredited laboratories under the VAP**

- Eliminates the Director’s authority to certify laboratories for purposes of performing analyses under the Voluntary Action Program (VAP).
- Instead, specifies that a laboratory must hold a valid accreditation from a specified outside accreditation body to perform analyses under the VAP.
- Generally requires a person participating in the VAP to use the services of an accredited laboratory to perform analyses, but specifies that data analyzed by a certified laboratory before the act’s effective date may still be used.
- Retains the Director’s authority to enter the property of a certified laboratory and conduct audits for purposes of investigation and extends this authority to accredited laboratories.

- Prohibits the Director from contracting with an accredited laboratory to perform an audit if the laboratory performed any analyses that formed the basis for the issuance of a no further action letter in connection with the audit.
- Eliminates outdated provisions governing the VAP.

### **Water pollution control: practical qualification level**

- Specifies that for purposes of determining compliance with a pollutant discharge limit set below the practical quantification level (PQL), any reported value below PQL constitutes compliance (instead of any level “at or below”).

### **Isolated wetland mitigation ratio table reference**

- Corrects an incorrect division reference to the Ohio Administrative Code.

## **Fees**

(R.C. 3745.11, 3734.57, and 3734.901)

The act extends the period of validity for various OEPA-administered fees under the laws governing air pollution control, water pollution control, safe drinking water, and solid waste. 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 lower the facility’s potential to emit air contaminants below the major source thresholds established in rules.	The fee was required to be paid through June 30, 2022.	The act extends the fee through June 30, 2024.

Type of fee	Description	Fee under prior law	Fee under the act
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, 2022, and the tier two fee on and after July 1, 2022.	The act extends the tier one fee through June 30, 2024; the tier two fee begins on or after July 1, 2024.
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, 2020, and January 30, 2021.	The act extends the fees and the fee schedules to January 30, 2022, and January 30, 2023.
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, 2020, and January 30, 2021.	The act extends the fee to January 30, 2022, and January 30, 2023.
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, 2020, and January 30, 2021.	The act extends the fee to January 30, 2022, and January 30, 2023.
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, 2022, and is required to be paid annually in January.	The act extends the initial license and license renewal fee through June 30, 2024.

Type of fee	Description	Fee under prior law	Fee under the act
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, 2022, and \$15,000 on and after July 1, 2022.	The act extends the cap of \$20,000 through June 30, 2024; the cap of \$15,000 applies on and after July 1, 2024.
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 applied through June 30, 2022, and the schedule with lower fees applied on and after July 1, 2022.</p> <p>The \$1,800 additional fee applied through June 30, 2022.</p>	<p>The act extends the higher fee schedule through June 30, 2024; the lower fee schedule applies on and after July 1, 2024.</p> <p>The act extends the additional fee through June 30, 2024.</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 applied through November 30, 2022, and a schedule with lower fees applied on and after December 1, 2022.	The act extends the higher fee schedule through November 30, 2024; the lower fee schedule applies on and after December 1, 2024.
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 was submitted through June 30, 2022, the fee was \$100. The fee was \$15 for an application submitted on or after July 1, 2022.	The act extends the \$100 fee through June 30, 2024; the \$15 fee applies on and after July 1, 2024.
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,	The act extends the \$200 fee through June 30,

Type of fee	Description	Fee under prior law	Fee under the act
		2022, the fee was \$100. The fee was \$15 for an application submitted on or after July 1, 2022.	2024; the \$15 fee applies on and after July 1, 2024.
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.  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 applied through June 30, 2022.	The act extends the fees through June 30, 2024.
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, 2022.	The act extends the fees through June 30, 2024.

The act also eliminates all of the following:

1. A \$15 application fee for registration certificate necessary for certain scrap tire collection;
2. A \$15 application fee for a permit, or variance, or plan approval under the Solid and Hazardous Waste Law;
3. An obsolete non-Title V air contaminant source fee schedule that applied from 1994 to 2003; and
4. The \$100 fee for renewal of coverage under an NPDES general permit for a household sewage treatment system.

Additionally, it reduces, from \$1,800 to \$500, the additional survey fee that laboratories must pay to the OEPA to add analysts or additional accepted analytical techniques between triennial renewal surveys.

Finally, the act corrects the definition of “MF” that is associated with lab fees by changing it from “microfiltration” to “membrane filtration.”

## Scrap tires removed from “no fault” sites

(R.C. 3734.85)

The act increases, from 5,000 to 10,000 (or more if the OEPA Director approves a larger amount), the number of scrap tires that can be removed from a person’s property by OEPA at no cost to the property owner. The act maintains the stipulation that all of the following conditions apply:

1. The tires were placed on the property *after* the property owner acquired title to the property, or the tires were placed on the property *before* the owner acquired title to the property by bequest or devise;
2. The property owner did not have knowledge that the tires were being placed on the property, or the property owner posted the property signs prohibiting dumping or took other action to prevent the placing of tires on the property;
3. The property owner did not participate in or consent to the placing of the tires on the property;
4. The property owner received no financial benefit from the placing of the tires on the property or otherwise having the tires on the property;
5. Title to the property was not transferred to the property owner for evading scrap tire abatement liability; and
6. The person responsible for placing the tires on the property, in doing so, was not acting as an agent for the property owner.

## Lead and copper notification rules

(R.C. 6109.121; R.C. 6109.01 and 6109.23, not in the act)

The act eliminates a requirement that the Director adopt rules establishing specific administrative penalties that apply to community or nontransient noncommunity water systems for violations of notice requirements regarding lead and copper laboratory results. Instead, it authorizes the Director to establish the administrative penalties under existing statutory guidelines that apply to other violations of the Safe Drinking Water Law.

In general, the act shifts reporting and other requirements that the owner or operator of these water systems must follow regarding lead and copper contamination from statute to rule. This shift includes requirements concerning the following subjects:

1. Administrative penalties, as discussed above;
2. Laboratory sampling and reporting requirements;
3. Notification requirements that the owner or operator of a community or nontransient noncommunity water system must follow regarding laboratory results;
4. Certification requirements concerning the notifications;
5. OEPA Director notifications where a system fails to make required notices; and

6. System mapping requirements that show areas of a system that are known or likely to contain lead service lines and lead fixtures.

Specifically, the act requires the rules to include requirements that the owner or operator of a community or nontransient noncommunity water system do both of the following:

1. When a tap sample for lead or copper is *below* the applicable lead threshold, provide notice of the results to residents within a time period specified in rules that is not more than 30 days after the receipt of lab results, rather than within two business days as in prior law; and
2. Under rules concerning mapping requirements, update and resubmit the maps according to a schedule determined by the Director, but no less frequently than required under the Safe Drinking Water Act, rather than every five years as in prior law.

The act eliminates a requirement that the Director provide financial assistance from the Drinking Water Assistance Fund to community and nontransient noncommunity water systems for the purpose of fulfilling the notice and mapping requirements.

A community water system is a public water system that has at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents. A nontransient noncommunity water system is a public water system that regularly serves at least 25 of the same persons over six months per year and is not a community water system.

## **Certified and accredited laboratories under the VAP**

(R.C. 3746.01, 3746.04, 122.65, 3746.07, repealed; R.C. 3746.071 (3746.07), 3746.09, 3746.10, 3746.11, 3746.12, 3746.13, 3746.17, 3746.18, 3746.19, 3746.20, 3746.21, 3746.31, and 3746.35)

The Voluntary Action Program (VAP) is a cleanup program administered by OEPA. Under the VAP, a person may undertake cleanup of a contaminated property to specific standards. When those standards are met, a certified professional (a person certified by OEPA to assess the cleanup) may issue a “no further action letter.” This letter verifies that the property, in the view of the certified professional and based on an analysis performed by a certified laboratory, has been remediated and meets appropriate standards. After the issuance of a no further action letter, the Director may issue a covenant not to sue. This covenant releases the person who undertook a voluntary action from all civil liability to the state to:

1. Perform investigational activities at the property that was the subject of the voluntary action; and
2. Perform remedial activities to address a release of hazardous substances or petroleum at the property (with certain conditions).

The act eliminates a requirement that OEPA certify laboratories for purposes of the VAP. Instead, it requires each laboratory to hold a valid accreditation from an outside accreditation body, as follows:

1. For analysis of asbestos, accreditation by one of the following:



- a. The American Industrial Hygiene Association, Asbestos Analysts Registry;
  - b. The National Institute of Standards Technology, National Voluntary Laboratory Accreditation Program (NELAP) for asbestos fiber analysis; or
  - c. An accreditation body recognized by the National Environmental Laboratory Accreditation Conference (NELAC).
2. For analysis of any constituents other than asbestos, accreditation by one of the following:
    - a. An accreditation body recognized by NELAC;
    - b. A NELAP accreditation from an accreditation body recognized by NELAC.

The act generally requires a person participating in a voluntary action to use the services of an accredited laboratory to perform analyses. But, it specifies that data analyzed by a laboratory certified by OEPA before the act's effective date may still be used for a voluntary action. Because this data may still be used, the act retains the Director's authority to audit any work performed by a certified laboratory before the act's effective date. For these purposes, the Director may do any of the following:

1. Enter the property of a certified laboratory for purposes of investigation;
2. Conduct a special audit when a no further action letter was issued under the VAP but the analyses were performed by a certified laboratory for which certification was suspended or revoked before the act's effective date; and
3. Audit work performed by a certified laboratory to determine if the laboratory's performance of its duties has resulted in the issuance of a no further action letter that is not consistent with cleanup standards.

The act extends the Director's investigation and auditing authority to accredited laboratories. It also prohibits the Director from contracting with an accredited laboratory to perform an audit if the laboratory performed any analyses that formed the basis for the issuance of a no further action letter in connection with the audit. This prohibition is a continuation of a prohibition that applies to certified laboratories. Finally, the act eliminates outdated provisions governing the VAP that applied before the Director adopted the rules governing the VAP.

## **Water pollution control: practical qualification level**

(R.C. 6111.13)

The act specifies that, for purposes of determining compliance with a water pollutant discharge limit set below the practical quantification level (PQL), any reported value below PQL (instead of any level "at or below" PQL) constitutes compliance. A PQL is the minimum concentration of an analyte (substance whose chemical constituents are being measured) that can be measured with a high degree of confidence that the analyte is present at the reported concentration.

## **Isolated wetland mitigation ratio table reference**

(R.C. 6111.027)

The act corrects an incorrect division reference to the Ohio Administrative Code in the law governing isolated wetlands. Prior law referenced mitigation ratios established under division (F) of rule 3745-1-54 of the Administrative Code. However, after the most recent revision to that rule, that reference is no longer accurate. The act corrects this by instead only referring to rule 3745-1-54.