

currently available for plant modifications is not considered a defense to an enforcement action under the Clean Water Act. The EPA letter further states that this provision would interfere with the State's required authority to be able to "sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of any program requirement, including permit conditions." Consequently, EPA has informed the Department that it may withdraw program approval.

The Attorney General's Office has also advised me that "(w)hile we think that the correct interpretation is one that would not lead to a loss of program approval, the matter is not free from doubt. If our interpretation is not adopted by EPA or the courts, the Department might lose delegation of Clean Water Act Authority and the grants that accompany that delegation."

While I understand that it was the intent of the House Environmental Matters Committee to apply this provision only to the assessment of administrative penalties, and not all enforcement actions, the EPA interpretation of the language raises serious concerns. I have received a letter from the Chairman of the Environmental Matters Committee, Delegate Ronald Guns, indicating he also recognizes the arguments being made for a veto. In order to be cautious and avoid any risk of the loss of federal funding, it may be prudent to forgo signing the bill this year and wait for corrected legislation next Session.

For the above reasons, I have decided to veto Senate Bill 194.

Sincerely,
William Donald Schaefer
Governor

Senate Bill No. 194

AN ACT concerning

~~Sewage Treatment Plants~~ ~~Effluent Limitations~~ ~~Discharge Penalties~~ Water Pollution Control - Penalties

FOR the purpose of ~~increasing the maximum civil and administrative penalties that may be assessed for certain violations of the water pollution control law;~~ requiring the owner of a certain sewage treatment plant under certain circumstances to pay certain administrative penalties if certain effluent discharges from the sewage treatment plant significantly violate certain effluent limitations; providing a basis for the calculation and assessment of certain discharge penalties; requiring the payment of all penalties imposed under this Act to the Department of the Environment within a certain time; prohibiting the sum of certain penalties in excess of certain amounts for a certain time; specifying that penalties created under this Act are in addition to any other penalties; providing the right to a hearing to certain persons and allowing a certain waiver of that right; prohibiting the reduction or certain use of a penalty imposed under this Act; specifying the conditions on which a waiver of the penalty may be granted by the Department; authorizing the Department to extend the effective date of certain compliance orders under certain circumstances; requiring the Department to deposit penalties imposed under this