

**MEMORANDUM**

**TO:** Kaye Norton, Ohio Department of Health

**FROM:** Whitney Sullinger, Regulatory Policy Advocate

**DATE:** November 16, 2012

**RE:** **CSI Review – House Bill 487 Fee Rules (OAC 3701:1-38-02, 3701:1-38-06, 3701:1-54-02 and 3701:1-66-03)**

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

**Analysis**

The Ohio Department of Health (ODH) submitted a rule package to the CSI Office for review on August 3, 2012 consisting of four amended rules. ODH amended rules 3701:1-38-02, 3701:1-38-06, 3701:1-54-02 and 3701:1-66-03 of the Ohio Administrative Code (OAC) as required by House Bill 487. Rule 3701:1-54-02 was also reviewed as part of the five-year review process required by ORC 119.032 and includes other minor changes, such as replacing “department” with “director” and rewording the rule for clarity.

As part of House Bill 487, the Ohio General Assembly amended the statutory penalty structure for the handlers of radioactive materials, radiation-generating equipment, and certified radiation experts. The bill amended the existing penalties to remove references to “two times” and “five times” the amount of the original invoice fee, and replaced them with a penalty fee of 10% over

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the original invoice after ninety days. As a result, ODH is now amending its rules to mirror the new statutorily-established penalties.

According to ODH, there are currently 982 radioactive material licensees and 10,000 radiation-generating equipment registrants in Ohio affected by these regulations. The potential impact from these amended regulations is a reduction of the amount due in penalty fees, which will reduce the financial burden on the regulated community. Additionally, 3701:1-54-02 contains generator reporting and fee requirements. An annual report must be submitted to the Director along with fees ranging from \$0.75 to \$3.50 per cubic foot for generating and storing low-level radioactive waste.

After reviewing the BIA, the CSI Office requested that ODH state that rule 3701:1-54-02 was also undergoing its five-year review and clarify one of its answers. A revised BIA was submitted to the CSI Office on November 07, 2012.

The CSI Office is not suggesting any further changes with respect to the rules or the BIA for the following reasons:

- No comments were received from the public during the public comment period.
- The revised BIA submitted by ODH is accurate and complete and does not raise any ongoing issues.
- Generally, the rule package satisfactorily meets the standards espoused by the CSI Office.

### **Recommendation**

For the reasons explained above this office does not have any recommendations regarding this rule package.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Department should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office