

**MEMORANDUM**

TO: David Sauer, Enforcement Coordinator, Ohio Department of Commerce

FROM: Sydney King, Regulatory Policy Advocate

DATE: November 24, 2015

RE: **CSI Review – Financial Responsibility (OAC 1301:7-9-05)**

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

This rule package consists of one no-change rule proposed by the Ohio Department of Commerce's Bureau of Underground Storage Tank Regulations. The rule package was submitted to the CSI Office on October 30, 2015 and the public comment period was held open through November 6, 2015.

The rule package requires underground storage tank owners to demonstrate the ability to meet deductible costs in order to participate in the Petroleum Underground Storage Tank Financial Assurance Fund (Petro Fund). The Petro Fund acts as insurance if there is an accidental release of the petroleum in the underground tank. The owner of the tank must pay a deductible for the insurance fund to provide coverage to clean up petroleum releases from underground storage tanks. The regulation requires the owner to satisfy a financial test in order to operate an underground storage tank. The rule provides several options to the owner to demonstrate the financial ability to take corrective action and compensate third parties for bodily injury or property damage caused by accidental releases from the underground petroleum tank.

The BIA describes a stakeholder outreach that solicited feedback from the Ohio Township Association, Ohio Petroleum Marketers and Convenience Store Association, Ohio Municipal League, Ohio Fire Chiefs' Association, Ohio Environmental Council, Mid-Ohio Regional Planning Commission, County Engineers Association of Ohio, County Commissioners' Association of Ohio, and Ohio Development Services Agency. No input was received during the early stakeholder outreach. Additionally, no public comments were received during the CSI public comment period.

The BIA identifies owners of underground storage tanks as the impacted industry. This can include political subdivisions, gasoline service stations, dry cleaners, stand-alone oil change facilities and auto repair shops that perform oil changes, and manufacturing facilities. The regulated business must submit financial reports and an agreement to the Department that demonstrate the ability to pay a deductible of either \$11,000 or \$55,000 depending on the number of tanks. The estimated costs of the reports and agreements are detailed in the BIA. The Department communicated to the CSI Office that the language that is required to be used in the agreements is based on federal law. The Department states it is necessary to require owners to comply with the regulations to ensure that the release of petroleum products is addressed. Addressing the release can include environmental cleanup and paying third parties for damages.

Following review of the draft rule, BIA, and stakeholder outreach, it has been determined that the standards espoused by the CSI Office have been met, and the adverse impacts of the draft rule are justified.

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 Ohio Department of Commerce 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