

**MEMORANDUM**

**TO:** Brock Miskimen, Ohio Department of Natural Resources

**FROM:** Cory Bailey, Regulatory Policy Advocate, Lt. Governor's Office

**DATE:** May 13, 2016

**RE:** **CSI Review – Industrial Minerals Rules (OAC § 1501:14-1-08; 1501:14-1-15; 1501:14-1-16; 1501:14-2-01 through 1501:14-2-10; 1501:14-5-01)**

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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) § 107.54, CSI has reviewed the abovementioned administrative rules and associated Business Impact Analysis (BIA). This memo represents CSI's comments to the Agency as provided for in ORC § 107.54.

**Analysis**

On April 11, 2016, the Ohio Department of Natural Resources (ODNR) submitted a draft rule package consisting of 14 amended rules to the CSI Office as part of the five-year review requirement contained in Ohio statute. The official public comment period closed on April 26, 2016 with no comments submitted.

The draft rule package provides a regulatory framework for industrial minerals surface mining. Topics covered range from liability insurance and training requirements to safety evaluations. While Ohio's Industrial Minerals Mine Safety Program and surface mining regulations are unrelated to federal rules and regulations, certain provisions from the Mine Safety and Health Administration (MSHA) have been copied or incorporated by reference.

A majority of the rules are being amended, with several of the changes being made in order to comply with changes in statute. Examples include revisions to audit requirements for mine safety training and updated standards for the use of a certified mine foreperson. There are also updates to incorporation by reference rules, clarification of hydrology provisions, and removal of a signature requirement on the proof of insurance form.

The impacted business community includes Ohio's industrial minerals surface mining operators. The adverse impacts to these operators are the investment of time and resources to comply with safety standards, time committed to inspections, reporting criteria, and insurance requirements among others. ODNR cites a statutory obligation to implement the rules as justification for the adverse impacts, as well as the need for the specific safeguards in the rules which protect the public and environment during and after surface mining operations.

Following review of the draft rules, 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 rules and amendments are justified.

### **Recommendations**

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

### **Conclusion**

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