



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Brian Becker, Ohio Department of Natural Resources

FROM: Ethan Wittkorn, Regulatory Policy Advocate

DATE: July 28, 2020

RE: CSI Review – 2020 Industrial Minerals (IM) Rules (OAC 1501:14-1-05, 1501:14-1-16, 1501:14-2-01, 1501:14-3-12, 1501:14-3-13, 1501:14-5-04, 1501:14-6-01, and 1501:14-6-02)

On behalf of Lt. Governor Jon Husted, 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 Ohio Department of Natural Resources (Department) rule package consists of four amended and four no change rules. It was submitted to the CSI Office on June 9, 2020 as part of the statutory five-year rule review, and the public comment period was open through June 30, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on June 9, 2020.

The proposed rules cover the Division of Mineral Resource Management's regulations regarding , industrial mineral surface mining requirements, such as permit transfers, federal code references, federal mine safety requirements, quarry fill, placement of lime mining waste, watercourse variances, permits for the use of lime mine wastes in mine operation reclamation, and distance limitation of lime mining waste placement. Proposed amendments to the rules include updates to federal code and resources referenced, updates to units of measurement used for surface elevation, updates to references to U.S. Environmental Protection Agency resources on leachate analysis, and the clarification of acronyms.

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During the period of early stakeholder outreach, the Department requested a preliminary review of the rules from the Ohio Aggregates and Industrial Minerals Association (OAIMA). The rules were again shared with the OAIMA and the Ohio Environmental Council. No comments were received on the rules during either the early stakeholder outreach period or the CSI public comment period.

Impacted communities include Ohio's industrial mineral surface mining operations. Adverse impacts of the rules include reporting requirements for proposed mining operations, liability insurance, the requirement to obtain a permit, handling of lime mining wastes to limit negative environmental and health effects of waste, and administrative costs associated with the submission of an application to use lime mining wastes. Also, the Department requires operators of surface mining operations that will dewater to report a hydrogeologic description and map, and groundwater data, to allow for the establishment of a cone of depression, and more detailed information when an operation is requesting to close certain watercourses. The Department states that the rules are necessary to provide safeguards to protect the public and the environment from potential impacts of industrial mineral surface mining.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.