



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Brian Becker, Ohio Department of Natural Resources, Division of Parks and Watercraft

FROM: Caleb White, Business Advocate

DATE: July 14, 2023

RE: **CSI Review – Technical Amendments to Special Event Permit & Concession Fees and No Change - Permits and Fees (OAC 1501:46-2-07, 1501:46-2-29, 1501:46-2-37, 1501:46-3-26, and 1501:46-5-01)**

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 Department as provided for in ORC 107.54.

Analysis

This rule package consists of two amended rules and three no change rules proposed by the Ohio Department of Natural Resources, Division of Parks and Watercraft (Division) as a part of the statutory five-year review process. This rule package was submitted to the CSI Office on June 12, 2023, and the public comment period was held open through June 26, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on June 12, 2023.

Ohio Administrative Code (OAC) 1501:46-2-07 sets forth the framework for the rental rates, fees, and charges which may be collected by concessionaires that operate in state parks and is amended to streamline the rule's language. OAC 1501:46-2-29 sets the price range for a special activities permit and requires an individual to obtain a special activity permit for events which may have significant impacts on public access and activities in the park. Some events that would require such a permit would be triathlons, fireworks, and weddings. OAC 1501:46-2-37 allows the chief of the Division to establish open vendor areas, sets forth the requirements to sell goods or services in these areas, and sets the vendor's permit fees for open vendor areas. OAC 1501:46-3-26 prohibits commercial activity

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in areas administered by the division unless the individual obtains a permit or concessions contract from the chief of the Division and lists the exceptions to this prohibition. OAC 1501:46-5-01 sets forth the stipulations for permits for state park use and allows the chief of the Division to issue permits and any necessary terms and conditions unless it interferes with park usage, unduly endangers the environment, or creates a risk of physical harm to the public—and is amended to update and streamline language.

During early stakeholder outreach, the Division sent the proposed rules to 35 industry stakeholders through email and requested their feedback on the proposed rules. The Division received one comment on OAC 1501:46-2-07 requesting that for the sake of equitable market conditions, when the state has a retail or rental operation in the same area as a concessionaire, the state should set any retail or rental rates in a manner commensurate with the rates charged by the concessionaire. The Division responded that since the comment was not related to the proposed changes to the rule, no changes were made in response to this comment. No comments were received during the CSI public comment period.

The business community impacted by the rules includes non-profit community and social organizations, statewide or national organizations, mobile food vendors, live entertainment providers, marine and RV dealers, and various commodity and product vendors. The adverse impact to business includes the payment of fees and the requirement to obtain permits for events, special events, and vendors. The application fee for special activities permits can cost up to \$50 and is non-refundable, a special activities fee can cost up to \$5,000 per day but varies based on the size of the event, the location, the type of use, and the impact of the event. At Division-sponsored events under a special activities permit, a vendor fee can cost up to \$75 per day for the sale of items other than food and beverages, food and beverage vendors however can pay up to fifteen percent of their gross sales for their permit fee. For open vendor area permits, the fees are \$10 for a one-day permit, \$20 for a three-day permit, and \$35 for a thirty-day permit. The Division also notes that none of the changes to these rules will increase the burden of compliance for the business community. The Division states that the adverse impacts created by the rules are necessary to ensure that applicants truly intend to utilize the requested areas and to offset any negative impacts these events may have on public lands.

Recommendations

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

Conclusion

The CSI Office concludes that the Division should proceed in filing the proposed rules with the

Joint Committee on Agency Rule Review.