

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 3745-84-06

Rule Type: No Change

Rule Title/Tagline: Conditioning, denial, suspension and revocation of a license to operate or maintain a public water system.

Agency Name: Ohio Environmental Protection Agency

Division: Division of Drinking and Ground Water (DDAGW)

Address: 50 W. Town St. Suite 700 Columbus OH 43215

Contact: Kamalpreet Kawatra **Phone:** 614-644-2915

Email: Kamalpreet.Kawatra@epa.ohio.gov

I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 10/1/2019 and 10/01/2024
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 3745.11, 6109.04, 6109.21
5. **What statute(s) does the rule implement or amplify?** 6109.21
6. **What are the reasons for proposing the rule?**

The rule has been reviewed pursuant to the five-year rule review requirements set forth in Section 106.03 and no changes have been proposed at this time.

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

Chapter 3745-84 contains license to operate (LTO) a public water system (PWS) rules. The chapter provides definitions of key components, requirements for application, expiration, renewal and display of LTO, fee required to maintain a LTO and details on

how and when the LTO can be conditioned, denied, suspended or revoked. This rule establishes the authority for the director to condition, deny, suspend or revoke a LTO and maintain a PWS.

- 8. Does the rule incorporate material by reference? Yes**
- 9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75 please explain the basis for the exemption and how an individual can find the referenced material.**

This rule contains references to the Ohio Administrative Code (OAC) and the Ohio Revised Code (ORC). While copies of these rules and statutes are generally available to the public through libraries and on-line sources, including the Ohio EPA website, ORC section 121.76 (A) exempts such references from the provisions of ORC sections 121.71 through 121.74.

- 10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

- 11. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

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The rule has no impacts on the revenues and expenditure for the agency.

- 12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

To comply with the LTO requirements of this rule and the other proposed rules in Chapter 3745-84, any person who operates or maintains a PWS must submit an annual LTO fee in accordance with section 3745.11(M) of the Revised Code. Therefore, the cost to comply with this rule is the amount of fee the PWS is required to remit. The fee amount depends on the type and size of the PWS. A copy of section 3745.11(M) of the Revised Code will be furnished upon request. The cost of compliance with this rule may also include those costs associated with rules in Chapter 3745-81 of the Administrative

Code, as a PWS's compliance with the safe drinking water act requirements in Chapter 3745-81 is tied to the status of their LTO.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). Yes**
14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). Yes**
15. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

To comply with the LTO requirements of Chapter 3745-84, any person who operates or maintains a PWS must submit an annual LTO fee in accordance with section 3745.11(M) of the Revised Code. Therefore, the cost to comply with the rules in this chapter is the amount of fee the PWS is required to remit. The amount depends on the type and size of the PWS. The fee is used towards annually evaluating each PWS, ensuring that they are complying with safe drinking water regulations and obtaining their LTO.

III. Common Sense Initiative (CSI) Questions

16. **Was this rule filed with the Common Sense Initiative Office? Yes**
17. **Does this rule have an adverse impact on business? Yes**
 - A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes**

Businesses owning or operating a PWS will required to obtain a LTO must submit an annual LTO fee in accordance with section 3745.11(M) of the Revised Code. Therefore, the cost to comply with the rules in this chapter is the amount of the fee the PWS is required to remit. The amount depends on the type and size of the PWS.

- B. **Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? Yes**

Violation of this rule could subject the PWS to conditioned, denied or a revoked LTO, and potential civil, administrative or criminal penalties in accordance with Chapter 6109 of the Revised Code. Ohio EPA does not assign fines and penalties for first-time offenders, and prefers to obtain compliance through

outreach and, if needed, written notice of violations prior to any type of formal enforcement.

- C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes**

The rules require submission of LTO application.

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No**

The rule is currently in effect and will have no impact on revenues and expenditures.

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Part B - Local Governments Questions

1. Does the rule increase costs for:

A. Public School Districts	No
B. County Government	Yes
C. Township Government	Yes
D. City and Village Governments	Yes

2. Please estimate the total cost, in dollars, of compliance with the rule for the affected local government(s). If you cannot give a dollar cost, explain how the local government is financially impacted.

Local government owning or operating a PWS will be required to obtain a LTO and must submit an annual LTO fee in accordance with section 3745.11(M) of the Revised Code. Therefore, the cost to comply with the rules in this chapter is the amount of fee the PWS is required to remit. The amount depends on the type and size of the PWS. The cost of compliance with this rule may also include those costs associated with rules in Chapter 3745-81 of the Administrative Code, as a PWS's compliance with the safe drinking water act requirements in Chapter 3745-81 is tied to the status of their LTO.

3. Is this rule the result of a federal government requirement? No

- A. If yes, does this rule do more than the federal government requires? *Not Applicable***
- B. If yes, what are the costs, in dollars, to the local government for the regulation that exceeds the federal government requirement?**

Not Applicable

4. Please provide an estimated cost of compliance for the proposed rule if it has an impact on the following:

A. Personnel Costs

None

B. New Equipment or Other Capital Costs

None

C. Operating Costs

See above

D. Any Indirect Central Service Costs

None

E. Other Costs

None

- 5. Please explain how the local government(s) will be able to pay for the increased costs associated with the rule.**

The rule is currently in effect. There is no impacts on costs in this rule making. Costs may be supported through conventional mechanisms such as collecting fees from customers, which is a business decision and Ohio EPA has no involvement in it.

- 6. What will be the impact on economic development, if any, as the result of this rule?**

The rule is currently in effect, there are no impact on economic development.

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Part C - Environmental Rule Questions

Pursuant to Am. Sub. H.B. 106 of the 121st General Assembly, prior to adopting a rule or an amendment to a rule dealing with environmental protection, or containing a component dealing with environmental protection, a state agency shall:

- (1) Consult with organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment.
- (2) Consider documentation relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or rule amendment.
- (3) Specifically identify whether the proposed rule or rule amendment is being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program, whether the proposed rule or rule amendment is more stringent than its federal counterpart, and, if the proposed rule or rule amendment is more stringent, the rationale for not incorporating its federal counterpart.
- (4) Include with the proposed rule or rule amendment and rule summary and fiscal analysis required to be filed with the Joint Committee on Agency Rule Review information relevant to the previously listed requirements.

(A) Were organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment consulted? Yes

Please list each contact.

Stakeholders include PWS owners and operators, consultants, environmental organizations, other state agencies, businesses and in general, the public at large. The only measure a person has to take to be notified of the Division of Drinking and Ground Water's (DDAGW) potential rule activity is to request to be added to our electronic or hard copy mailing list. Stakeholders were notified of DDAGW's plans to file rules in chapter 3745-84 as "no change" by electronic or regular mail on April 8, 2019. The rules were placed into interested party review on July 15, 2019, no comments were received on the intent to file these rules as "no change".

(B) Was documentation that is relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or amendment considered? Yes

Please list the information provided and attach a copy of each piece of documentation to this form. (A SUMMARY OR INDEX MAY BE ATTACHED IN LIEU OF THE ACTUAL DOCUMENTATION.)

The LTO rules are not based on technical or scientific data. The basis for the information requested is to have accurate owner information and to assess the appropriate fee. The fee is set in ORC 3745.11. The information requested is necessary to determine ownership and administer the program. ORC section 6109.21 provides the legislation that requires PWSs to obtain a LTO, as well as provides for renewals, terms and conditions of LTOs and exemption of churches and schools. ORC section 6109.21 paragraph (H) allows the director to establish procedures and requirements regarding the information included on LTO and renewal applications, as well as how and when LTOs may be conditioned, denied, suspended or revoked. The resources are available online.

- (C) Is the proposed rule or rule amendment being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program? No**

Is the proposed rule or rule amendment more stringent than its federal counterpart?
Not Applicable

- (D) If this is a rule amendment that is being adopted under a state statute that establishes standards with which the amendment is to comply, is the proposed rule amendment more stringent than the rule that it is proposing to amend? Yes**

Please explain why?

Provisions in this rule may be perceived as more stringent because of the detail in the proposed rule compared to the statute. Establishing the additional level of detail is necessary to implement the program and enforce the rule.