

Rule Summary and Fiscal Analysis (Part A)**Ohio Environmental Protection Agency**

Agency Name

Division of Drinking and Ground Water
(DDAGW)

Division

Julie Spangler

Contact

50 W. Town St. Suite 700 Columbus OH 43215-0000 614-644-2752

Agency Mailing Address (Plus Zip)

Phone

Fax

Julie.Spangler@epa.ohio.gov

Email

3745-84-06

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Conditioning, denial, suspension and revocation of a license to operate or maintain a public water system.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **3745.11, 6109.04, 6109.21**

5. Statute(s) the rule, as filed, amplifies or implements: **6109.21**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being proposed to meet the rule review requirements of section 119.032 of the Revised Code.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE,

then summarize the content of the rule:

This rule establishes the authority for the director to condition, deny, suspend or revoke a license to operate and maintain a public water system. The changes to this rule provides clarification of how the director to acts on license to operate applications.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule references Chapters 3745-81 and 3745-84 of the Administrative Code, and Chapters 119., 3745., and 6109. of the Revised Code. According to section 121.76 of the Revised Code, these references are exempt from the requirements of sections 121.71 to 121.74.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. 119.032 Rule Review Date: **3/17/2014**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this

rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

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The proposed rule will neither increase nor decrease agency revenues or expenditures.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

To comply with the license to operate requirements of this rule and the other proposed rules in Chapter 3745-84, any person who operates or maintains a public water system must submit an annual license to operate fee in accordance with section 3745.11(M) of the Revised Code. Therefore, the cost to comply with this rule is the amount of the fee the public water system is required to remit. The fee amount depends on the type and size of the public water system. 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 public water system's compliance with the safe drinking water act requirements in Chapter 3745-81 is tied to the status of their license to operate.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **Yes**

You must complete the Environmental rule Adoption/Amendment Form in order to comply with Am. Sub. 106 of the 121st General Assembly.

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

Public water system owners must obtain a license to operate their water system(s).

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 public water system to conditioned, denied or a revoked license to operate, 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**

This rule requires a public water system to have a valid license to operate in order to produce water for human consumption, as defined by rule 3745-81-01 of the Administrative Code.

Rule Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
No	Yes	Yes	Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

To comply with the license to operate requirements of this rule and the other proposed rules in Chapter 3745-84, any person who operates or maintains a public water system must submit an annual license to operate fee in accordance with section 3745.11(M) of the Revised Code. Therefore, the cost to comply with this rule is the amount of the fee the public water system is required to remit. The fee amount depends on the type and size of the public water system. 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 public water system's compliance with the safe drinking water act requirements in Chapter 3745-81 is tied to the status of their license to operate.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b)

new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

To comply with this rule will equal the license to operate fee required under section 3745.11(M) of the Revised Code. This would fall under the category of an operational cost.

(a) Personnel Costs

Not applicable.

(b) New Equipment or Other Capital Costs

Not applicable.

(c) Operating Costs

To comply with this rule will equal the license to operate fee required under section 3745.11(M) of the Revised Code.

(d) Any Indirect Central Service Costs

Not applicable.

(e) Other Costs

Not applicable.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

The proposed rule will have no affect on the agency's ability to pay for the requirements imposed by the rule.

7. Please provide a statement on the proposed rule's impact on economic development.

The proposed rule is not expected to impact economic development.

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Environmental Rule Adoption/Amendment Form

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.
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- (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.

Ohio EPA invited interested parties to comment on this rule during the period of December 2, 2013 to January 10, 2014. Comments received were considered and appropriate revisions to the rules were made. A list of interested parties will be furnished upon request.

- (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.)

Section 6109.21 of the Revised Code was considered. A copy will be furnished upon request.

- (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 lack thereof in the Ohio statute. Establishing the additional level of detail is necessary to implement the program and enforce the rule.