



Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name: Ohio Environmental Protection Agency

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Regulation/Package Title (a general description of the rules' substantive content):
Underground Injection Control Rules

Rule Number(s): 3745-34-03, 3745-34-09, 3745-34-10, 3745-34-17, 3745-34-18, 3745-34-21, 3745-34-63.

Date of Submission for CSI Review: 2/11/2025

Public Comment Period End Date: 3/12/2025

Rule Type/Number of Rules:

New/ rules

No Change/ 7 rules (FYR? Y)

Amended/ rules (FYR?)

Rescinded/ rules (FYR?)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the Agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

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Which adverse impact(s) to businesses has the Agency determined the rule(s) create?

The rule(s):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☒ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

Rules in Chapter 3745-34 of the Ohio Administrative Code (OAC) establishes requirements for facilities that dispose of waste via underground injection. This rule has been reviewed pursuant to the five- year rule requirements set forth in section 106.03 of the Ohio Revised Code and the division is proposed as no change.

Rule 3745-34-03 promotes agency transparency by ensuring that the public has access to Ohio EPA records. At the same time, this rule protects the private sector by allowing Ohio EPA to treat information as confidential if a trade secret claim is properly asserted in accordance with the rule.

Rule 3745-34-09 describes the list of requirements all generators of hazardous waste and owners of waste management facilities must meet and or follow to inject hazardous waste.

Rule 3745-34-10 describes the circumstances in which the director may waive a requirement.

Rule 3745-34-17 describes the signatories of any application, report, change in authority, and certification.

Rule 3745-34-18 describes how the director may issue a permit for a class V injection well on an area basis.

Rule 3745-34-21 describes how permits to operate a class I or class V injection well shall be effective for fixed terms exceeding no longer than five years and when they can be terminated or modified by the director.

Rule 3745-34-63 describes how the owner of a class I injection well approved by the director shall pay the annual permit fee and the fee per ton of industrial waste injected.

- 3. Please list the Ohio statute(s) that authorize the Agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

Authorization and Amplification:

3745-34-03 = 6111.04

3745-34-09, 3745-34-10, 3745-34-17, 3745-34-18, 3745-34-21, and 3745-34-63 = 6111.043

- 4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

If yes, please briefly explain the source and substance of the federal requirement.

Yes, rules in Chapter 3745-34 enable Ohio EPA to administer the Safe Drinking Water Act as well as retain the primary enforcement authority from the Federal Government.

- 5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

The fees required in 3745-34-63 exceed the federal requirement. These are required by state law in ORC 6111.046 and 6111.047.

- 6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The Ohio-specific public policy goals (as stated in Ohio Revised Code section 6111.043) are to establish a program for regulation of the injection of sewage, industrial waste, hazardous waste, and other wastes into wells in order to control pollution of the waters of the state, to prevent contamination of underground sources of drinking water, and to satisfy all requirements of the Safe Drinking Water Act (SDWA). These rules implement the fee requirements as set forth in sections 6111.046 and 6111.047 of the Revised Code.

- 7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The Agency will base success of the rules in this package on compliance rates within the underground injection control program. Compliance for 3745-34-63 is determined through the agency receiving the annual permit fees. 3745-34-03 does not affect agency outputs or outcomes.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

- 9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

If applicable, please include the date and medium by which the stakeholders were initially contacted.

Stakeholders include underground injection control owners and operators, consultants, environmental organizations, other state agencies and the general public. The only measure someone has to take to be notified of DDAGW's potential rule activity is to request to be added to our electronic mailing list. Stakeholders can sign up for this notification directly from Ohio EPA's website.

Stakeholders were notified of DDAGW's plans to review these rules beginning on November 7, 2024, with a 30-day comment period ending on December 9, 2024.

- 10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

Ohio EPA received no comments during the 30-day comment period.

- 11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

Rules 3745-34-09, 3745-34-10, 3745-34-17, 3745-34-18 and 3745-34-21 are based on section 6111.043 of the Revised Code and corresponding federal regulations. Rule 3745-34-63 is based on sections 6111.046 and 6111.047 of the Revised Code. Rule 3745-34-03 implements a federal requirement found at 40 CFR 144.5.

- 12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.

The rules in this package implement the requirements found in their respective sections of the Revised Code and federal regulations. Rule 3745-34-03 implements its federal counterpart (40 CFR 144.5) consistently with Ohio EPA's trade secret rule (Rule 3745-49-03).

- 13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

Ohio EPA reviewed internal regulations and determined there are no duplications.

- 14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

Ohio EPA provides draft rule revisions to staff for internal review and comment. Additionally, training may be provided, and all effective rule revisions are distributed to staff. Implementation of these rules includes the following:

- Seeking input from staff on implementation problems and developing solutions.
- Involving staff in developing the rule amendments.
- Developing internal procedures and guidance documents for staff to use in implementing rules.
- Regularly notifying staff of rule changes.
- Giving presentations on rule updates.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

Owners of Class I and Class V injection wells in the state will be impacted by these rules.

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.

The cost of compliance of all rules in this rules package would fall upon facilities with class I underground injection wells.

3745-34-03: The cost of compliance with the fee rule was estimated for class I injection wells. The costs are based on sections 6111.046 and 6111.047 of the Revised Code, and include the annual permit fee, which is the cost for disposing of hazardous and non-hazardous waste generated on site, or hazardous waste generated off site. The estimate also includes the actual disposal cost, which is the dollar per ton disposed. The - 7 - total estimated cost of compliance with this rule is between \$61,703.90 and \$98,000.31. This proposed filing does not have an impact on the cost of the rule.

* U.S. Department of Labor, Bureau of Labor Statistics Inflation Calculator used to account for inflation from 2019 - 2024.

3745-34-09: This rule references several hazardous waste rules of the Administrative Code. The cost of the rule is accounted for in other rules however, Ohio EPA cannot

develop an accurate cost of compliance estimate due to the number of variables involved. The variables include the amount and types of hazardous waste that are managed, and the methods used to manage them. This amendment does not have an impact on the cost of the rule.

3745-34-10: If the small business is not injecting fluid into an underground source of drinking water, then it may qualify for reduced UIC requirements under this rule.

3745-34-17: Ohio EPA estimates that it costs each permit applicant or permit holder \$41.13 to \$82.48 per signature measure in work time to have the appropriate person sign each application and report submitted. Depending on the type of well, the applicant may need to submit anywhere from 12 to 15 reports per year. The rule is currently effective, there are no additional impacts on costs in this rulemaking.

* U.S. Department of Labor, Bureau of Labor Statistics Inflation Calculator used to account for inflation from 2019 - 2024.

3745-34-18: The cost for class V injection well permittees to comply with this rule has been established in rule 3745-34-12 of the Administrative Code. Costs incurred will likely be less for a well area permit because the permit itself covers more than one well, whereas the permit costs associated with OAC rule 3745-34-12 of the Administrative Code are for an individual well permit.

3745-34-21: The cost of the rule depends on the frequency a facility has to obtain a permit. The cost for applicants to reapply, obtain new permits and complete permit applications has been accounted for in other sections of OAC Chapter 3745-34.

3745-34-63: There is no cost associated with requesting confidentiality of information, nor is there a requirement to do so.

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).

No.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

Ohio EPA considers the overall cost of complying with these regulations to be minor in comparison with ensuring the public is supplied with a safe and reliable source of drinking water.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No exemptions or alternative means of compliance for small businesses have been written into the rules being filed in this package. The fees in this rule are required by statute and the other rules implement a federal standard.

19. How will the Agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Ohio EPA does not assign fines and penalties for first-time offenders and prefers to obtain compliance through outreach first and if needed, written notice of violations prior to any type of formal enforcement.

20. What resources are available to assist small businesses with compliance of the regulation?

The following resources are available:

- Ohio EPA provides information and resources to help small businesses comply with environmental regulations. Ohio EPA also helps customers identify and implement pollution prevention measures that can save money, increase business performance and benefit the environment. Services include a toll-free hotline, on-site compliance and pollution prevention assessments, workshops/training, plain-English publications library and assistance in completing permit application forms.
- Ohio EPA maintains the Compliance Assistance Hotline 800-329-7518, weekdays from 8:00 a.m. to 5:00 pm and a permit assistance webpage <https://epa.ohio.gov/staycompliant/get-help/permit-assistance> that contains links to several items to help businesses navigate the permit process, including the Permit Wizard, Answer Place, Ohio EPA's Guide to Environmental Permitting and eBusiness Center.
- Facilities can contact members of Ohio EPA's Division of Drinking and Ground Waters' Underground Injection Control (UIC) Unit for technical assistance. They can be reached by calling 614-644-2752. The UIC Unit also maintains a website which includes answers to many commonly asked questions.