

**MEMORANDUM**

**TO:** Amanda Payton, Agency Rules Coordinator, Ohio Environmental Protection Agency

**FROM:** Meredith Rockwell, Regulatory Policy Advocate

**DATE:** February 6, 2013

**RE:** **CSI Review – Control of emissions of volatile organic compounds from stationary sources and perchloroethylene from dry cleaning facilities (OAC 3745-21-09)**

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On behalf of Lt. Governor Mary Taylor, 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****Stage II Vapor Recovery Requirement**

In 2012, the CSI Office was contacted by a person who desired to open a gas station in an area required to install Stage II vapor recovery systems on gas station dispensers. The business owner told the CSI Office that the federal Environmental Protection Agency (EPA) was discontinuing the Stage II vapor recovery system requirements, because more recently manufactured vehicles have been equipped with onboard vapor recovery. The onboard vapor recovery reduces the need for, and in fact is not compatible with the Stage II systems on gas station dispensers. The CSI Office then reached out to the Ohio EPA to determine whether the Stage II vapor recovery requirements in Ohio regulations could be eliminated. Over the subsequent months, various stakeholders participated in discussions of how the Ohio EPA could eliminate Stage II vapor recovery

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requirements in Ohio while complying with federal requirements that any lost emission reductions be replaced through other controls. The amended rule submitted by the Ohio EPA in this package is the result of those stakeholder discussions, which the CSI Office participated in directly. While the CSI Office understands that the total elimination of the Stage II vapor recovery system requirements is coming in future years, this amended rule is an interim compromise to allow an exemption from the Stage II requirements for new gas stations and gas stations that are undergoing complete demolition and rebuilding. Existing gas stations will be phased out of the Stage II requirements in a subsequent rule package that the Ohio EPA and stakeholders have agreed to continue working on.

Since the CSI Office participated in the early stakeholder discussions, we are aware that the stakeholders involved in those discussions are satisfied with the amendments to this rule. Furthermore, only two comments regarding the Stage II amendment were received during the CSI process. The first comment was supportive, and the second was promptly addressed by the Ohio EPA. The second comment pertained to the existing exemption from the Stage II requirement for automobile or light-duty truck assembly plants. The commenting party, a business that engages in heavy vehicle assembly, suggested that the category of heavier vehicle assembly be added to the existing exemption for other assembly operations. The Ohio EPA ultimately agreed, and the rule was amended to include heavier vehicle assembly facilities.

The Ohio EPA has estimated in the BIA that installing a new Stage II system would cost a gas station between \$20,000 and \$60,000. Annual testing of Stage II systems would cost a station between \$2,000 and \$4,000. The amendment does create a new impact for those stations seeking an exemption – they must install low permeation hoses and submit a letter to the Ohio EPA documenting that the facility has eliminated Stage II in compliance with the rules. The Ohio EPA estimates the cost to maintain the low permeation hoses at \$300 per year and the cost of preparing the exemption letter at \$100 to \$500. Overall, though, the exemption eliminates the capital investment and testing costs created by the Stage II requirements. The Ohio EPA feels the overall impact to businesses is negligible and necessary for the Ohio EPA to comply with federal law.

### **Surface coating of automobiles and light-duty trucks**

The rule also proposes an exemption to the general limitation on volatile organic compounds (VOCs) discharged into the air by automobile or light-duty truck assembly plants. When fewer than 35 vehicles are being painted or coated per day, the plant is exempted from the general VOC limitations. The best available technology for reducing VOC emissions generates pollutants itself. At these low production levels, the pollutants created do not balance the VOCs being controlled by the technology; therefore, the Ohio EPA believes the exemption reduces the impact to business and is more environmentally friendly. The exempt plants still have to engage in some record keeping and reporting, but it is less than that required for non-exempt plants. The record keeping is

necessary to ensure the plants are maintaining their exempt status and protecting the environment.

Overall, the Ohio EPA conducted the early stakeholder outreach appropriately and completed the BIA accurately. The rule, generally, is part of the state implementation plan and is intended to assist Ohio in attaining and maintaining the National Ambient Air Quality Standard for ozone. These amendments appear to lessen the burden on qualifying businesses, while making no negative impacts to the air quality in Ohio.

### **Recommendations**

For the reasons stated above, the CSI Office does not have any recommendations regarding this rule package.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Agency should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office