

**MEMORANDUM**

TO: Amanda Payton, Ohio Environmental Protection Agency

FROM: Paula Steele, Regulatory Policy Advocate

DATE: January 14, 2014

RE: **CSI Review – Composting Rules** (OAC Rules 3745-560-130, 3745-560-230, 3745-560-330)

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

The Ohio Environmental Protection Agency's (OEPA) rule package consists of three amended draft rules. The proposed rules prescribe the quality standards and testing methodologies for classes I, II and III composting facilities and are being amended to correct typographical errors. The draft rules were filed with the CSI Office on December 4, 2013 with a public comment period ending on December 27, 2014. There were no public comments received during the public comment period.

Overall, the proposed rules do contain adverse impacts to business due to sampling costs and those impacts will be more fully analyzed by OEPA at the time of the required five-year review under ORC 119.032. However, the purpose of the proposed amendments is to correctly list the type of analytical methods of testing to ensure samples collected do not exceed concentration limits. For example, an analytical method was incorrectly listed as "SW-846" which on its own refers to general test methods for evaluating solid waste. The proposed amendments correct the listing to specify the method originally omitted: "SW-846 6020A."

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The proposed rules include alternative test methods to the SW-846 6020A, but the errors only occurred when listing that specific methodology also known as Inductively Coupled Plasma-Mass Spectrometry.¹ According to the BIA, the amendments do not specifically create an adverse impact to business. However the adverse impact to business was expressed in the 2012 rule filing and adoption as the overall sampling costs which reportedly range from \$268 to \$460.

Upon review of the proposed rules and BIA, the CSI Office has determined that the rule satisfactorily meets the standards espoused by the CSI Office, and the purpose of the amendments is justified.

Recommendations

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

Conclusion

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

cc: Mark Hamlin, Director of Regulatory Policy

¹ SW-846 Online (<http://www.epa.gov/osw/hazard/testmethods/sw846>)