

**MEMORANDUM**

TO: Amanda Payton, Ohio Environmental Protection Agency

FROM: Paula Steele, Regulatory Policy Advocate

DATE: December 6, 2013

RE: **CSI Review** – Permits to Install New Sources (OAC Rules 3745-31-01, 3745-31-02, 3745-31-04, and 3745-31-06 to 3745-31-32)

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The Ohio Environmental Protection Agency's (OEPA) rule package consists of twenty-eight amended and two rescinded (Rules 3745-31-30 and 3745-30-31) draft rules under five-year review in accordance with ORC 119.032. The proposed rules address air permit requirements for all new and modified sources of air pollution and include permits to install (PTI) and permits to install and operate (PTIO). These permitting requirements are part of Ohio's State Implementation Plan (SIP) for attaining and maintaining the national ambient air quality standards (NAAQS) under the federal Clean Air Act. The draft rules were filed with the CSI Office on April 09, 2013 with a public comment period ending on May 10, 2013. There were five public comments received during the public comment period and the OEPA provided the agency's response to comments on September 30, 2013.

The intent of the rule package is to ensure compliance with the Clean Air Act which requires states to adopt equal or more stringent implementation plans for national air quality standards. The amendments update the rules to reflect the 2008 US EPA requirements for a new pollutant

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type - particulate matters of less than 2.5 microns in diameter. As part of this program, the proposed rules are also being updated to reflect 2010 federal requirements for establishing increments, impact levels, and a monitoring concentration for fine particulate pollution. According to the OEPA, the changes are essentially identical to the federal language and do not exceed federal requirements. Other proposed changes not directly tied to the federal program updates include additions, clarifications and corrections.

The OEPA described comprehensive early stakeholder outreach that began in 2009 and included sending notices to more than 1,200 stakeholders, seeking input. Stakeholders provided input and changes made by the OEPA as a result, are summarized in a Synopsis of Changes document.

The public comments submitted during the CSI process were detailed and extensive. A majority of comments focused on the need for more clarity in the definitions rule, OAC 3745-31-01. The OEPA responded to all comments and most of the stakeholder suggestions were accepted and have been incorporated in the proposed rules. Where appropriate, OEPA staff provided reasons as to why they disagreed or were not willing to change the proposed rules.

The BIA identifies the impacted business community as any business that is emitting air pollutants. Those businesses must apply for a permit. The time to complete an application varies depending on the type and size of facility. Applications can take a few hours or a few months to prepare and the costs range from \$100 to more than \$30,000. In addition, once the permit application is approved, installation permit fees ranging from \$50 to thousands of dollars must be paid. These fees are prescribed in ORC 3745.11 and are based on the annual amount and type of pollutants emitted from a facility. PTIO permits must be renewed every 10 years and the renewal costs are estimated to be approximately half of the initial permit costs.

Upon review of the proposed rules, BIA, response to comments and the summary of rule changes made due to stakeholder input, the CSI Office has determined that the rule satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rule 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