

**MEMORANDUM**

TO: Amanda Payton, Ohio Environmental Protection Agency

FROM: Sophia Papadimos, Regulatory Policy Assistant

DATE: January 24, 2014

RE: **CSI Review – License to Operate (LTO) Amendments** (OAC Rules 3745-84-01, 3745-84-02, 3745-84-03, 3745-84-04, 3745-84-05, 3745-84-06)

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 six amended rules being reviewed under the five-year rule review as required by ORC 119.032. The draft rules were filed with the CSI Office on December 2, 2013 with a public comment period ending on January 10, 2014. There was one comment received during this time, suggesting some of the language in the rule should not be changed. OEPA continued with the proposed draft language. The draft rules explain the requirements to obtain a license to operate (LTO) a public water system (PWS). An issued license indicates that the public water system is approved by Ohio EPA to supply drinking water to the public. A public water system is a system to deliver water to the public for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals.

OAC 3745-84-01 covers the definitions associated with the license to operate a public system. OAC 3745-84-02 explains the application process for an LTO, including the pre-application which the Agency sends automatically every year to those who operate a public water system.

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Additionally, the Director or an authorized representative of OEPA can access records or inspect facilities which have been granted an LTO. OAC 3745-84-03 articulates the expiration and renewal process to operate or maintain a public water system. OAC 3745-84-04 explains the required format and display of a license to operate or maintain a public water system. This rule specifically pertains to the color-coding system issued by the Director representing the status of the license to operate. A green license to operate shall be issued to a public water system licensed without conditions. A yellow license to operate shall be issued to a public water system licensed with conditions. A red sign shall be issued to a public water system not licensed due to denial, suspension, or revocation of the license to operate. OAC 3745-84-05 addresses the fees for operating or maintaining a public water system. Section 3745.11 of the ORC dictates the appropriate fees for public water systems depending on how many people the system will serve. OAC 3745-84-06 explains that the director may condition, deny renewal, suspend or revoke a license to operate or maintain a public water system.

The BIA identifies the adverse impact as the fee required when applying for a license to operate a public water system. License costs are established in ORC 3745.11. The time it takes to fill out the application and potential sanctions against public water systems for failure to comply are also adverse impacts. However, these rules allow the agency to annually evaluate each public water system, ensuring that operators are complying with safe drinking water regulations and obtaining their licenses to operate. Requirements for public water system designs and OEPA review of those designs are addressed in separate rules not included in this package.

Upon review of the proposed rules and BIA, the CSI Office has determined that the rules satisfactorily meet 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