

**MEMORANDUM**

TO: Michelle Mountjoy, Ohio Environmental Protection Agency

FROM: Travis Butchello, Regulatory Policy Advocate

DATE: August 3, 2017

RE: **CSI Review – Universal Waste Rules – Hazardous Non-Empty Aerosol Containers, Antifreeze, and Paint-related Wastes (OAC 3745-50-45, 3745-51-09, 3745-54-01, 3745-65-01, 3745-270-01, 3745-273-01, 3745-273-09, 3745-273-13, 3745-273-14, 3745-273-15, 3745-273-32, 3745-273-33, 3745-273-34, 3745-273-35, 3745-273-39, 3745-273-60, 3745-273-62, and 3745-273-89)**

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

This rule package consists of twelve amended¹, five no-change, and one new rule proposed by the Ohio Environmental Protection Agency (OEPA). One rule is being proposed for its five-year rule review requirement. The rule package was submitted to the CSI Office on November 18, 2016 and the public comment period was held open through December 21, 2016. Twenty-nine comments were received during this time. Responses to the comments were provided on May 25, 2017.

The rules in this package pertain to hazardous wastes, and specifically, universal wastes which

¹ Ohio Administrative Code (OAC) 3745-273-13 and 3745-273-33 are being amended to the extent that the Legislative Service Commission requires the Department to rescind the rules and replace them with a new rule of the same rule number.

require a special set of provisions that govern their handling, recycling, and disposal. OEPA wishes to amend the rules to designate hazardous non-empty aerosol containers, hazardous antifreeze and hazardous paint and paint related wastes as universal wastes. The purpose of the rules is to streamline the hazardous waste rules management rules for the three specified wastes and thereby promote proper waste management, divert wastes to proper landfill disposal, and encourage recycling.

OEPA explained in the BIA that it reached out to numerous environmental entities and interested parties as part of its early stakeholder outreach process which included consultation during the rule drafting process. The agency met with or received specific feedback from some stakeholders. The aforementioned feedback included a myriad of inquiries concerning industry compliance with the rules pertaining to costs and operational challenges. OEPA chose to proceed with the rules as is through the public comment period before providing responses to concerns.

Thirty two comments were received during the CSI public comment period. Many commenters expressed discontent or made requests to include additional term definitions in the rules. Specifically, one commenter suggested that OEPA revise the definition of paint to include unpigmented (clear) coatings. OEPA made the change to include such types of paint. Other commenters expressed concerns regarding substantive portions of the rules. One commenter opposed the air emission control provisions required for equipment used for the puncturing of aerosol containers so they may be disposed of or recycled properly. OEPA responded and chose to remove the requirements to limit potential duplicative regulation with provisions imposed by the air pollution control program. Lastly, another commenter noted that the Ohio-specific labeling requirement of universal waste will result in a different labeling format than the federal universal waste program. OEPA replied that was not their intention and modified the rule to clarify that units holding universal waste shall not be labeled to identify which type of universal waste is contained within them.

The rules may impact many different entities, persons, and businesses in the state. OEPA states in the BIA that affected parties can include those who operate in industries such as agriculture, mining, government, manufacturing, transportation, retail, and commercial. The BIA emphasizes that the rules do not impose any fees or permits and that OEPA is in fact reducing the burden on industry and affected parties by streamlining management standards pertaining to these types of waste.

Recommendation

For the reasons explained above, this office does not have any recommendations regarding 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.