



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Mark Bruce, Ohio Department of Natural Resources

FROM: Emily Groseclose, Senior Policy and Business Advocate

DATE: September 17, 2020

RE: **CSI Review – Five Year Rule Review Filing for 1501:9 (OAC 1501:9-1-01, 1501:9-1-02, 1501:9-1-03, 1501:9-1-05, 1501:9-1-06, 1501:9-1-07, 1501:9-1-08, 1501:9-3-01, 1501:9-3-02, 1501:9-3-04, 1501:9-3-05, 1501:9-3-06, 1501:9-3-07, 1501:9-3-08, 1501:9-3-09, 1501:9-3-10, 1501:9-3-11, 1501:9-3-12, 1501:9-3-13, 1501:9-12-01, and OAC Chapters 1501:9-2, 1501:9-5, 1501:9-7, 1501:9-9, and 1501:9-10)**

On behalf of Lt. Governor Jon Husted, 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 four amended and 55 no change rules, submitted by the Ohio Department of Natural Resources (Department) as part of the statutorily required five-year review. The rule package was submitted to CSI on August 13, 2020, and the comment period was held open through August 31, 2020. One comment was received during that time and the Department provided its response on September 16, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on August 13, 2020.

These rules regulate the permitting and construction of oil and gas wells, horizontal well pads, Class II Injection Wells, Enhanced Recovery Projects, and Solution Mining Projects. Additionally, the rules establish general safety requirements for oil and gas activities and pipelines regulated by the Division of Oil and Gas Resources Management (Division). At this time, the Department proposes minor changes to four rules to correct references to websites and industry standards. The

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Department noted in the BIA that it is currently undertaking a reorganization and rewrite of OAC Division 1501:9.

As part of early stakeholder outreach, the Department posted the rules on its website and shared them via email with stakeholders, including representatives of the oil and gas industry. No comments were received during that time. One comment was received during the CSI public comment period from the Ohio Farm Bureau, which suggested changes to the definition of “horizontal well,” more definitive language to provide clarity regarding notification responsibilities and timelines for certain inspections, and a requirement for contact information to be listed on pipeline surface markers and special posts. In response, the Department stated that amending the definition of “horizontal well” would require a statutory change, and that it does not intend to make changes to the rules at this time but will consider the requests as it continues the reorganization and rewrite of OAC Division 1501:9.

These rules impact all entities regulated by the Division. The Department noted that the rules require permits, allow the Division to impose fines or penalties for failing to comply with the rules as prescribed by statute, and require the report of information and specific expenditures, but that there are no changes proposed to the rules at this time that will impose any additional costs of compliance. The Department asserted that the regulation of oil and gas activity in Ohio protects the health and safety of the public, as well as the environment, while providing reasonable standards in which the industry can operate.

Recommendations

For the reasons described above, the CSI office has no recommendations on this rule package.

Conclusion

Based on its review of the proposed rule package, the CSI office recommends that the Ohio Department of Natural Resources proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.