



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Amanda Payton, Ohio Environmental Protection Agency

FROM: Ethan Wittkorn, Regulatory Policy Advocate
Jacob Ritzenthaler, Regulatory Policy Advocate
Joseph Baker, Regulatory Policy Advocate

DATE: May 13, 2021

RE: **CSI Review – Hazardous Waste Review 2020 (OAC 3745-50-20, 3745-50-21, 3745-50-23, 3745-50-36, 3745-50-38, 3745-50-40, 3745-50-42, 3745-50-44, 3745-50-51, 3745-50-52, 3745-50-57, 3745-50-62, 3745-50-66, 3745-51-08, 3745-51-10, 3745-51-20, 3745-51-21, 3745-51-22, 3745-51-24, 3745-51-100, 3745-52-21, 3745-52-42, 3745-52-43, 3745-52-206, 3745-53-30, 3745-54-13, 3745-54-18, 3745-54-53, 3745-54-54, 3745-54-56, 3745-54-72, 3745-54-73, 3745-55-18, 3745-55-42, 3745-55-43, 3745-55-44, 3745-55-45, 3745-55-47, 3745-55-75, 3745-55-96, 3745-57-43, 3745-57-72, 3745-65-13, 3745-65-19, 3745-65-53, 3745-65-56, 3745-65-72, 3745-65-73, 3745-66-18, 3745-66-42, 3745-66-43, 3745-66-44, 3745-66-45, 3745-66-47, 3745-66-95, 3745-66-96, 3745-205-100, 3745-205-101, 3745-256-100, 3745-256-101, 3745-266-23, 3745-266-100, 3745-266-101, 3745-266-102, 3745-266-103, 3745-266-104, 3745-266-105, 3745-266-106, 3745-266-107, 3745-266-200, 3745-266-201, 3745-266-202, 3745-266-203, 3745-266-205, 3745-266-206, 3745-266-210, 3745-266-240, 3745-266-260, 3745-270-02, 3745-270-03, 3745-270-04, 3745-270-31, 3745-270-40, 3745-273-03, 3745-279-42, 3745-279-43, 3745-279-51, 3745-279-52, 3745-279-62, 3745-279-73)**

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 Ohio Environmental Protection Agency (EPA) rule package consists of 89 amended rules and two no change rules. The draft rules were submitted to the CSI Office on March 24, 2021, and the

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public comment period was open through April 21, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on March 24, 2021.

The proposed rules regulate hazardous waste management. The Ohio EPA has been given authorization to manage these rules that are required by the U.S. EPA. Sections covered in the package include permit requirements, hazardous waste identification, standards for generators, standards for regulated parties, operations of hazardous waste facilities, restrictions, record keeping, and containment of waste. The proposed rules are being amended to bring them into compliance with federal rules, including language changes for consistency and clarity, the removal of unnecessary requirements to use certified mail, clarification of the permit appeals process, and updated references.

During the early stakeholder outreach period, the EPA notified interested parties of the rule review, which included representatives of regulated entities, professional associations, environmental groups, consultants, and legal representation. The EPA received only one comment during that time regarding a rule that is not currently being reviewed as part of this rule package. During the CSI public comment period, the EPA received one comment requesting a definition change for a rule that is not included in this package, as well as requesting the EPA to develop a plan for certain organic emissions standards, which is also not being considered at this time.

The proposed rules may include adverse impacts affecting businesses that generate, treat, store, dispose of, or transport hazardous waste. Impacts created by the rules include administrative costs to comply with storage, maintenance, and treatment of hazardous waste requirements, licensing fees, records maintenance costs, documentation requirements, and record reporting. Additional impacts include costs related to meeting permit requirements and emission control standards. The EPA argues that costs of compliance will be reduced due to the removal of certified mail requirements in several rules. Specific costs related to compliance will vary based on the nature of the activity being conducted at a given facility. The EPA also stressed that when it reviews these rules, it seeks to make changes that customize the federally required rules for Ohio and avoid creating new costs or problems for Ohio's citizens and regulated industries.

The EPA states in the BIA that the adverse impact to business is justified as the rules in this package are modeled to be functionally equivalent to federal counterparts. If the Ohio EPA does not promulgate rules equivalent to the federal requirements, the Ohio EPA could lose its ability to regulate hazardous waste and the affected business community would be subject to the federal regulations and any associated adverse impacts. Overall, the rules help to manage hazardous waste in Ohio to protect the public and the environment from mismanagement of these wastes.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the EPA should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.