



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Mandi Payton, Ohio Environmental Protection Agency

FROM: Jacob Ritzenthaler, Business Advocate

DATE: February 6, 2023

RE: **CSI Review – Solid Waste Composting Facilities (OAC 3745-560-100, 3745-560-200, and 3745-560-300)**

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 three amended rules proposed by the Ohio Environmental Protection Agency (OEPA). This rule package was submitted to the CSI Office on December 9, 2022, and the public comment period was held open through January 9, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on December 9, 2022.

Ohio Administrative Code (OAC) Chapter 3745-560 establishes requirements related to solid waste composting facilities. OAC 3745-560-100 sets forth requirements for Class I composting facilities, including criteria for establishment and operation of a facility, permit application procedures, information required in the plan sheets and narrative reports, requirements for materials placement areas and leachate management structures, and permit modifications. The rule is amended to remove redundant requirements for materials placement areas and leachate management structure locations. OAC 3745-560-200 establishes requirements for Class II facilities and is amended to remove conflicting requirements for placement of materials placement areas and leachate management structures and require a single standard distance of 250 feet from an occupied dwelling unless written

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permission is obtained. The rule previously included both an additional 500-foot requirement, which was added in error when the rule was drafted. OAC 3745-560-300 sets forth requirements for Class III facilities and is amended to remove redundant structure placement requirements.

During early stakeholder outreach, OEPA sent the proposed rules to industry stakeholders for feedback, including solid waste composting facilities and other interested parties. During that time, four comments were received from citizens that reside near a proposed Class II facility in Greene County, Ohio. The comments suggested adopting the erroneously included requirement for structures to be located no closer than 500 feet from occupied dwellings. OEPA did not make changes in response to the suggestion, stating that the requirement was not the intended distance and that the 250-foot distance has been the standard since the rule's inception. No comments were received during the CSI public comment period.

The business community impacted by the rules include all Class I, II, and III solid waste composting facilities. The adverse impacts created by the rules include time spent applying for permits, the cost of applying for an annual license, and calculating closure and financial assurance costs. Class I facilities are required to pay a \$400 permit to install, which is applied to the permit issuance fee of \$1,000. Annual license fees for Class I and II facilities include a \$100 application fee and an issuance fee that is calculated based on the maximum amount of material authorized for the site. Closure costs for Class I facilities are calculated based on the cost for a third party to close the site when the extent and manner of the operation would make the closure the most expensive. Class II facilities that accept solid wastes must calculate closure costs at a rate of \$2.50 per cubic yard multiplied by the operational capacity of the materials placement area. Class II facilities that accept alternative materials calculate closure costs at \$8 per cubic yard or the local disposal rate multiplied by the maximum amount of alternative materials authorized. OEPA states that the adverse impact to business is necessary to reduce the impact that solid waste composting facilities have on the environment and to protect public and environmental health.

Recommendations

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

Conclusion

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