



## 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:** March 24, 2023

**RE:** **CSI Review – Hazardous Waste - Organic Air Emissions, Definition of Solid Waste (OAC 3745-50-10, 3745-50-11, 3745-50-15, 3745-50-16, 3745-50-17, 3745-50-23, 3745-50-24, 3745-50-26, 3745-50-44, 3745-50-49, 3745-50-51, 3745-51-01, 3745-51-02, 3745-51-04, 3745-51-06, 3745-51-140, 3745-51-142, 3745-51-143, 3745-51-147, 3745-51-148, 3745-51-151, 3745-51-170, 3745-51-170, 3745-51-190, 3745-51-191, 3745-51-193, 3745-51-194, 3745-51-196 through 3745-51-200, 3745-51-400, 3745-51-410, 3745-51-411, 3745-51-420, 3745-51-730 through 3745-51-735, 3745-51-750, 3745-51-752 through 3745-51-764, 3745-51-780, 3745-51-781, 3745-51-782, 3745-51-783, 3745-51-784, 3745-51-786, 3745-51-787, 3745-51-788, 3745-51-789, 3745-54-01, 3745-54-10, 3745-54-13, 3745-54-15, 3745-54-73, 3745-54-77, 3745-55-17, 3745-55-18, 3745-55-70, 3745-55-79, 3745-55-90, 3745-55-100, 3745-56-20, 3745-56-32, 3745-57-91, 3745-65-01, 3745-65-13, 3745-65-15, 3745-65-73, 3745-65-77, 3745-66-17, 3745-66-18, 3745-66-70, 3745-66-78, 3745-66-90, 3745-66-93, 3745-66-102, 3745-67-20, 3745-67-31, 3745-67-40, 3745-69-01, 3745-205-30 through 3745-205-36, 3745-205-50, 3745-205-52 through 3745-205-65, 3745-205-80, 3745-205-82 through 3745-205-90, 3745-205-200, 3745-256-30, 3745-256-32, 3745-256-33, 3745-256-34, 3745-256-35, 3745-256-50, 3745-256-52 through 3745-256-64, 3745-256-80 through 3745-256-90, 3745-256-200, 3745-266-22, 3745-266-80, 3745-266-100, 3745-266-102, 3745-266-103, 3745-266-106, 3745-266-107, 3745-266-111, 3745-266-112, 3745-270-42, 3745-273-13, and 3745-273-33)**

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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

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The rules included in this package establish requirements related to the handling of hazardous waste. Many of the new rules and amendments included in this rule package were prompted by requirements for OEPA rules to match the requirements of the federal Resource Conservation and Recovery Act and U.S. Environmental Protection Agency.

OAC Chapter 3745-50 sets forth general requirements for hazardous waste management systems and includes new rules that establish requirements for determinations of non-waste, notification regarding secondary materials, and legitimate recycling. OAC Chapter 3745-51 includes new rules that require creating cost estimates, financial assurance as a condition, liability insurance, and incapacity for managing excluded hazardous secondary materials, as well as rules that establish regulations for the use and management of containers, tank systems, emergency preparedness and response for management of excluded hazardous secondary materials, process vents, and equipment leaks. OAC Chapter 3745-54 establishes general standards for new hazardous waste facilities. Amendments include information to be included in a waste analysis plan for facilities seeking an exemption to air emission standards and updates to rule language and references. OAC Chapter 3745-55 concerns corrective actions, facility closure, post-closure, and financial requirements. Amendments to these rules are primarily made to update rule language and references. New rules establish air emission standards for containers and tank systems. OAC Chapters 3745-56 and 3745-57 set forth requirements for surface impoundments, waste piles, tanks, and incinerators and include amendments that update language and references. New rule OAC 3745-56-32 concerns air emission standards for surface impoundments.

OAC Chapter 3745-65 concerns interim standards and is amended to include submission requirements for facilities seeking an exemption to air emission standards, as well as updates to rule references. OAC Chapter 3745-66 sets forth requirements for closure and post-closure procedure under interim standards and includes amendments that update rule references. New rules establish air emission standards for containers and tanks. OAC Chapters 3745-67, 3745-68, and 3745-69 establish requirements for surface impoundments, landfills, incinerators, thermal units, and miscellaneous treatments. The rules are amended to update rule language and references and to introduce a new rule for air emission standards for surface impoundments. OAC Chapters 3745-205 and 3745-256 establish requirements for hazardous waste containment buildings, as well as explosives and munitions. New rules added to these chapters set forth requirements for testing, record keeping, equipment, and systems. OAC Chapter 3745-266 establishes interim standards for burners. OAC 3745-270-42 establishes treatment standards for types of hazardous waste that are restricted from land disposal. OAC 3745-273-13 and 3745-273-33 set forth requirements for waste management standards for small and large quantity handlers of universal waste.

During early stakeholder outreach, OEPA sent the proposed rules to industry stakeholders for

feedback. During that time, OEPA received comments that supported the adoption of these requirements while also suggesting clarifications to the rule language. OEPA did not make these changes, citing the need to remain consistent with federal regulations. During the CSI public comment period, OEPA received comments from two stakeholders. One stakeholder suggested clarifying the applicability of federal requirements within the rule language, and another stakeholder suggested removing addresses and office and home phone numbers of persons qualified to act as an emergency coordinator from the list of required information. OEPA stated that, since this rule language must be equivalent to that of the federal authorizing statute, it would not make the suggested changes.

The business community impacted by these rules includes all businesses that generate, treat, store, dispose of, or transport hazardous waste. Adverse impacts created by the rules include requirements to obtain permits, comply with requirements for facilities and equipment, personnel training, inspections, and recordkeeping. OEPA notes that obtaining a permit can cost over \$100,000 depending on the size and waste management activity of the facility. OEPA states that the adverse impacts created by the rules are necessary to regulate the potentially harmful effects of hazardous waste, as well as to comply with federal statute.

### **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.