



Common Sense Initiative

Mike DeWine, *Governor*
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

MEMORANDUM

TO: Mandi Payton, Ohio Environmental Protection Agency

FROM: Michael Bender, Business Advocate

DATE: February 8, 2024

RE: **CSI Review – Public Water System Licenses (OAC 3745-84-01, 3745-84-02, 3745-84-03, 3745-84-04, 3745-84-05, and 3745-84-06)**

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 six amended rules proposed by the Ohio Environmental Protection Agency (OEPA) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on December 28, 2023, and the public comment period was held open through January 28, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on December 28, 2023.

Ohio Administrative Code (OAC) 3745-84-01 contains definitions pertaining to public water systems (PWSs). The rule is amended to remove unnecessary language and clarify that the definition of "service connection" is only for the purpose of calculating the license to operate fee. OAC 3745-84-02 requires a person who wants to operate or maintain a PWS to obtain a license to operate from the Director of the OEPA (Director), which entails the submission of a pre-application, an application, and a fee. The rule is amended to update language, remove unnecessary language, and include an email address as a method of contact for the PWS, legal owner, lessee, financial contact, and operator of record. OAC 3745-84-03 requires an individual who wants to continue operating a PWS to renew

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the license to operate annually with the Director, which entails the submission of a pre-application, an application, and a fee. The rule is amended to update language and remove unnecessary language.

OAC 3745-84-04 establishes requirements surrounding the display of a license to operate by a PWS. The rule is amended to update language, remove unnecessary language, eliminate the color-coded license/sign system, and remove the requirement for a PWS to return a revoked or suspended license to the Director. OAC 3745-84-05 establishes the required fees for persons applying for a license to operate or maintain a PWS. The rule is amended to remove a requirement for the Director to transmit all fees collected under the rule to the Ohio Treasurer of State for deposit into the Drinking Water Protection Fund. OAC 3745-84-06 authorizes the Director to condition, deny, suspend, or revoke a license to operate or maintain a PWS for violations of applicable statutes and rules. The rule is amended to remove unnecessary language and allow for suspensions to last for less than six months.

During early stakeholder outreach, the OEPA's Division of Drinking and Ground Waters (DDAGW) notified stakeholders on August 3, 2023, of the opportunity to comment on plans to revise the rules through September 4, 2023. Stakeholders contacted by the DDAGW included PWS owners and operators, consultants, environmental organizations, other state agencies, businesses, the federal EPA, and members of the public. No comments were received during this period or during the CSI public comment period.

The business community impacted by the rules includes all Ohio PWSs, excluding schools and churches. The adverse impacts created by the rules include obtaining and renewing licensure, paying the required fees, and properly displaying a license. Failure to pay a required fee will result in an applicant owing an additional amount equal to ten percent of the original fee. Statutory or regulatory violations may lead to the conditioning, denial, suspension, or revocation of a license. The OEPA notes that the changes to the rules reduce the regulatory burden on businesses by modernizing the application process, removing the requirement to return a revoked or suspended license, and allowing for shorter license suspensions. The OEPA states that the adverse impacts to business are justified to implement statutory requirements and ensure the public is supplied with a safe and reliable source of drinking water.

Recommendations

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

Conclusion

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