



Common Sense Initiative

Mike DeWine, Governor
Jim Tressel, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Mandi Payton, Ohio Environmental Protection Agency

FROM: Jacob Ritzenthaler, Business Advocate

DATE: April 9, 2025

RE: **CSI Review – Cessation of Regulated Operations (OAC 3745-352-01, 3745-352-05, 3745-352-10, 3745-352-15, 3745-352-20, 3745-352-25, 3745-352-30, 3745-352-35, and 3745-352-40)**

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This rule package consists of three amended rules and five rescinded rules proposed by the Ohio Environmental Protection Agency (OEPA). This rule package was submitted to the CSI Office on February 12, 2025, and the public comment period was held open through March 14, 2025. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on February 12, 2025.

Ohio Administrative Code (OAC) Chapter 3745-352 establishes requirements for the cessation of regulated operations (CRO). OAC 3745-352-01 lists materials incorporated by reference. The rule is amended to include relevant definitions and to update the titles and locations of referenced materials. OAC 3745-352-05 lists definitions and is proposed for rescission. OAC 3745-352-10 provides a description of the CRO program and determines facility applicability. The rule is proposed for

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rescission. OAC 3745-352-15 sets forth who is responsible for compliance with CRO rules and is proposed for rescission. OAC 3745-352-20 establishes the responsibilities of an owner or operator and is proposed for rescission. OAC 3745-352-25 establishes the responsibilities for a holder of a first mortgage on real property, a fiduciary, an indentured trustee, or a receiver and is proposed for rescission. OAC 3745-352-30 requires facility owners and operators to provide adequate security against unauthorized entry. It is amended to revise the language of the rule. OAC 3745-352-35 sets forth the process for designating a contact person and is proposed for rescission. OAC 3745-352-40 establishes the process for obtaining a waiver from compliance with certain requirements of the CRO program. The rule is amended to revise language.

During early stakeholder outreach, OEPA sent the proposed rules to industry stakeholders for feedback. Two comments were received during that time that did not offer suggestions for the proposed rules. No comments were received during the CSI public comment period.

The business community impacted by the rules includes businesses that utilized regulated substances and have ceased all regulated operations for more than one year. The adverse impacts created by the rules include ensuring that facilities are secured against unauthorized entry, which can include providing entry barriers and posting warning signs, as well as requirements for submitting a waiver request, which must include a copy of the interim maintenance and operation plan and written documentation. OEPA states that the adverse impacts created by the rules are necessary to comply with statute and prevent regulated substances from becoming a threat to human health or the environment.

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.