

MEMORANDUM OF RESPONSE

To: Michael Bender, Business Advocate

From: Mandi Payton, Agency Rules Coordinator

Date: October 15, 2024

Subject: Memorandum of Response to CSI Review – Stormwater Program Rules

Recommendations

On October 15, 2024, Ohio EPA received the recommendations for the Ohio EPA's Division of Surface Water's Stormwater Program (OAC 3745-39-01, 3745-39-02, 3745-39-03, and 3745-39-04) rules.

In summary, the CSI memorandum stated that:

"The business community impacted by the rules includes industries required to obtain coverage under a stormwater NPDES permit and businesses located within small MS4 boundaries. The adverse impacts created by the rules include the requirement to prepare and submit an NPDES permit application, the costs associated with implementing the stormwater management program, and associated fees. According to the OEPA, municipalities may charge a stormwater utility fee to cover the costs of implementing the stormwater management program, though the fee itself is not required by the rules. Permit application fees are \$200 for MS4s, \$350 for industrial stormwater, and \$200 plus \$20 per whole disturbed acre above five acres with a maximum disturbed acreage fee of \$300 for construction stormwater. Annual discharge fees for MS4s are \$10 per one-tenth of a square mile of area permitted with a maximum fee of \$10,000. When conducting stormwater rulemaking in 1990, the U.S. EPA provided estimates for the costs associated with developing and submitting the permit applications covered by the rules in this package. Such estimates included an annual cost of \$4.2 million for MS4s applying for NPDES permits for discharges, an average of \$76,681 and 4,534 hours of preparation for a large municipality's permit application, an average of \$49,249 and 2,912 hours of preparation for a medium MS4's permit application, an annual respondent cost of \$9.5 million and 271,248 hours of preparation for NPDES permit applications and related notices from facilities with discharges associated with industrial activity, an average cost of \$1,007 and approximately twenty-eight hours of preparation for an individual industrial permit application, and an average cost of \$17 and a half-hour of preparation for the notification and notice of intent to be covered by a general permit. The OEPA states that the adverse impacts to business are justified to comply with federal law and regulations, maintain fishable and swimmable waters, protect spawning and wildlife habitats, prevent contamination of drinking water, and minimize the impacts of pollutants in stormwater discharges on receiving stream water quality.

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

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

Next Steps

Currently, it is Ohio EPA’s plan to move forward with the original filing of these rules with the Joint Committee on Agency Rule Review.

If you have any questions, please contact Mandi Payton at amanda.payton@epa.ohio.gov.