



Common Sense Initiative

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Business Impact Analysis RESCINDED RULES

This form is intended for rules that are being permanently rescinded and not replaced by a new rule.

New, Amended, No Change, and Rescind/New rules must use the standard BIA.

Agency, Board, or Commission Name: Ohio EPA

Rule Contact Name and Contact Information: Mandi Payton, Agency Rules Coordinator, 614-644-3134, amanda.payton@epa.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):
Rules to Authorize Bulk Liquid Addition at MSW Landfills to Stabilize Waste (RD&D)

Rule Number(s): 3745-27-80, 3745-27-81, 3745-27-82, 3745-27-83, 3745-27-84, 3745-27-85, 3745-27-86, 3745-27-87, 3745-27-88, 3745-27-89

Date of Submission for CSI Review: October 2, 2020

Public Comment Period End Date: November 2, 2020

Rule Type/Number of Rules:

Rescinded/ 10 rules (FYR?)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing

regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

- 1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- Requires specific expenditures or the report of information as a condition of compliance.**
- Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

- 2. Please describe in plain language the regulation that is being rescinded.**

These rules established the permitting, design, and operational requirements for a municipal solid waste (MSW) landfill to conduct research, development, or demonstration (RD&D) projects to stabilize waste through bulk liquid addition. Both federal and Ohio rules specifically prohibit the addition of bulk liquids at MSW landfills because of concerns with the additional gas and leachate production and the potential adverse impacts the gas and leachate might have on the environment. These rules created an alternative to the federal and Ohio prohibition against bulk liquid addition that allows the owner or operator of an MSW landfill to conduct research into the design and operation of what is frequently referred to as bioreactor landfill under the RD&D program. The purpose of the federal RD&D program is to gain field experience and data from bulk liquid addition to landfills. On December 26, 2018, US EPA announced an Advanced Notice of Proposed Rulemaking to remove the liquids addition prohibition and retire the RD&D program. Furthermore, no applications have been submitted to Ohio EPA to conduct the program, therefore the determination has been made to rescind the rules.

3. Why is the regulation being rescinded?

Please be specific (ORC change, request of stakeholders, etc.)

On December 26, 2018, US EPA announced an Advanced Notice of Proposed Rulemaking to remove the liquids addition prohibition and retire the RD&D program. The federal requirement implemented in these regulations is optional for states, however, approval from US EPA is necessary for Ohio EPA to administer and enforce the RD&D program. Furthermore, no applications have been submitted to Ohio EPA to conduct the program, therefore the determination has been made to rescind the rules.

4. Please describe in general terms the adverse impacts to business, including currently impacted industries, in the existing rule(s).

The scope of the impacted business community consists only of those owners and operators of MSW landfills that wish to submit an application for an RD&D authorization. The adverse impact includes employer time and resources to prepare an application for an authorization, the associated application fees, and the cost of implementing and conducting the authorized RD&D project in compliance with the authorization and these rules. The cost of compliance is dependent upon the details of the proposed demonstration project and would naturally vary depending on the size, design, and duration of the demonstration. There have been no authorizations issued in Ohio to add bulk liquids to quantify adverse impacts.

Since no applications have been submitted since the program was adopted in 2011, Ohio EPA is proposing to rescind the rules and consequently eliminate any cost of compliance.

5. Are there other regulations (either existing or to be created) which will replace the regulation being rescinded or which will now apply because this regulation is being rescinded? This can include rules, statute, federal regulations, agency policies, or industry standards etc.

Upon rescission, MSW landfills will no longer be able to receive authorization to dispose of bulk liquids until the US EPA adopts the federal rules. Once US EPA adopts federal rules, Ohio EPA will evaluate whether there is a need to develop regulations addressing disposal of bulk liquids at MSW landfills.

6. Does the rescission of this regulation eliminate flexibility or create more adverse impacts for stakeholders? If yes, please describe stakeholder outreach and justify the impacts.

Yes, this rescission would eliminate flexibility to conduct RD&D projects to stabilize waste through bulk liquid addition. Ohio EPA has determined the adverse impacts of the rescission are negligible since no applications have been received to conduct such a project in the 9 years the rules have been effective.