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Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name: Ohio Environmental Protection Agency

Rule Contact Name and Contact Information: Amanda Payton, Ohio EPA

Regulation/Package Title (a general description of the rules' substantive content):

Long Term 2 Enhanced Surface Water Treatment Rule

Rule Number(s): 3745-81-31, 3745-81-64, 3745-81-67, 3745-81-68, 3745-81-69

Date of Submission for CSI Review: 6/22/2026

Public Comment Period End Date: 7/24/2026

Rule Type/Number of Rules:

New/___ rules

No Change/__2__ rules (FYR? __Y__)

Amended/__3__ rules (FYR? __Y__)

Rescinded/____ rules (FYR?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):

   a. ☐ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**

   b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**

   c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**

   d. ☒ **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 briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

Rules in Chapter 3745-81 of the Ohio Administrative Code (OAC) set forth primary drinking water standards for public water systems (PWS), as set forth in the federal Safe Drinking Water Act Amendments. The rules in this package describe and establish the general requirements for treatment techniques and recordkeeping for systems treating surface water. Proposed amendments include the following:

- 3745-81-31 and 3745-81-64 are being proposed as no change.
- 3745-81-67
  - Updating references.
  - Changing "crypotosporidium" to "cryptosporidium".
  - Removing March 1, 2010 deadlines.
  - Removing the Cryptosporidium Treatment Compliance Dates Table.
- 3745-81-68
  - Removing references to 3745-81-67.
  - Minor grammar corrections.
  - Removing references to finalized programs in 2006.
  - Updating references.
  - Updating links.
- 3745-81-69
  - Updating references.
  - Updating the Microbial Toolbox Reporting Requirements schedule to "Upon intent", "watershed control plan is approved" and "in the schedule as approved by the director".

3. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

ORC Section 6109.04 authorize the Agency to adopt this regulation and states that the director shall "adopt, amend, and rescind such rules in accordance with Chapter 119 of the Revised Code as may be necessary or desirable to…govern public water systems to protect the public welfare, including rules governing contaminants in water that may adversely affect the sustainability of the water for its intended uses or that may otherwise adversely affect the public health or welfare."

4. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**
If yes, please briefly explain the source and substance of the federal requirement.

Yes, these regulations enable Ohio EPA to administer the Safe Drinking Water Act (SDWA), as well as retain primary enforcement authority from the Federal Government. These rules are used by Ohio EPA to protect drinking water sources from potential contaminants as outlined in the SDWA. These rules assist the state with implementing the federal LT2 Enhanced Surface Water Treatment Rule. The Federal counterpart to these rules can be found in Title 40 of the Code of Federal Regulations (CFR), Part 141 (National Primary Drinking Water Regulations).

5. **If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for**

exceeding the federal requirement.

3745-81-64: This rule is more stringent than its federal counterpart because it requires all public water systems using surface water, in whole or in part, to provide filtration treatment. This has been an established practice in Ohio and can be found in effective rule 3745-81-73 of the Administrative Code.

3745-81-67: Ohio requires all public water systems to obtain approval of plans prior to any substantial change or modification to treatment, design or operation. The State also requires all systems using surface water, in whole or in part, to provide filtration treatment. These requirements have been established practices in Ohio and can be found in Chapter 91 and rule 3745-81-73 of the Administrative Code.

3745-81-68: Ohio requires all public water systems to obtain approval of plans prior to any substantial change or modification to their system, such as treatment design or operation. The State also requires all systems using surface water, in whole or in part, to provide filtration treatment. These requirements have already been established in Chapter 3745-91 and rule 3745-81-73 of the Administrative Code. Additionally, language has been added to require systems to be operating under normal conditions when collecting turbidity samples which is merely a clarification of this rule's federal counterpart and not more stringent. Ohio also requires systems to monitor turbidity, maintain daily logs and assure an operator of record is signing operational logs, which is consistent with established requirements in Chapter 3745-7 and Chapter 3745-81 of the Administrative Code.

3745-81-69: Ohio requires all finished water storage facilities to be covered and for all public water systems using surface water, in whole or in part, to provide filtration treatment. These requirements have been established practices in Ohio and can be found in rules 3745-83-01 and 3745-81-73 of the Administrative Code.

6. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The public purpose for adopting such regulations is ensuring the availability of a safe and adequate supply of public drinking water. These rules help to achieve this purpose by ensuring PWSs monitor for contaminants and have drinking water sources that are protected from contaminants through the implementation the LT2 Enhanced Surface Water Treatment Rule.

7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The success of the rules in Chapter 3745-81 is based on compliance rates. Compliance may be determined through monitoring and reporting results, review of plans and confirmation of installation, during sanitary surveys (onsite inspections) or a combination thereof.

8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**
If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**
If applicable, please include the date and medium by which the stakeholders were initially contacted.

Stakeholders include public water system owners and operators, consultants, environmental organizations, other state agencies and in general, the public at large. The only measure someone has to take to be notified of DDAGW's potential rule activity is to request to be added to our electronic or hard copy mailing list. In fact, stakeholders may sign-up themselves up for this notification. In addition, DDAGW will be seeking comment from stakeholders during the division's interested party review period. The interested party review period occurs before the rules are filed with JCARR and is used to address any concerns or questions from staff and our stakeholders.

10. **What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

Stakeholders were notified of DDAGW's plans to revise rules 3745-81-31, 3745-81-64, 3745-81-67, 3745-81-68 and 3745-81-69 on March 2, 2026, by electronic or regular mail in accordance with their request.

11. **What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

No scientific data was used in the revision of this rule package.

12. **What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**
Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to

comply.

In order to retain primary enforcement authority, Ohio EPA is required to adopt the federal counterparts of rules. Therefore, Ohio EPA could not consider alternatives to rules in Chapter 3745-81.

13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The agency reviewed the regulations alongside existing regulatory documents and determined they did not duplicate an existing regulation.

14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

Ohio EPA provides draft rule revisions to staff for internal review and comment. Additionally, training may be provided, and all effective rule revisions are distributed to staff. Implementation of these rules include the following:

- Seeking input from staff on implementation problems and developing solutions.
- Involving staff in developing the rule amendments.
- Developing internal procedures and guidance documents for staff to use in implementing Rules.
- Regularly notifying staff of rule changes.
- Giving presentations on rule updates.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

Public water systems impacted by these rules are using surface water as their source in whole or in part.

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.

There will be no additional cost added due to the changes of this rule.

16. Are there any proposed changes to the rules that will <u>reduce</u> a regulatory burden imposed on the business community? Please identify. ***(Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability,***

eliminating requirements, reducing compliance time or fees, or other related factors).

Rule 3745-81-33: The estimated cost of compliance for this rule is associated with the cost of storing required records, which will depend on the volume of records to be maintained. The volume of records will vary depending on the size of the system, from one filing cabinet's worth of records to an entire filing room. The cost of complying with this rule could therefore range from $360 to $ 1200 (a one-time cost for a standard 5-drawer filing cabinet, depending on the type and a couple of boxes of file folders and hanging filing folders at Staples.com), to an annual cost of $2,131.73* (approximate cost for maintaining an account with National Records Centers, who have off-site locations in five cities in Ohio).

*U.S. Department of Labor, Bureau of Labor Statistics Inflation Calendar used to account for inflation from 2019-2026.

Rules 3745-81-64 to 3745-81-69: These rules were adopted in response to the federal Long Term 2 Enhanced Surface Water Treatment Rule (LT2) and supplement existing microbial treatment regulations by targeting public water systems (PWS) with higher potential risk from Cryptosporidium. Existing regulations already require most PWS that filter to remove at least 99 percent of Cryptosporidium; however, a subset of systems with greater vulnerability require additional treatment. The rules require surface water systems or ground water systems under the direct influence of surface water to monitor their source water to determine an average Cryptosporidium level, and systems may need to adopt new practices and/or install additional treatment accordingly. Under the current rule, PWSs must complete initial and future monitoring for E. coli and, depending on the E. coli results, for Cryptosporidium. All systems in Ohio have completed their first round of monitoring, so there is no cost associated with initial monitoring in this rulemaking. Some systems may experience a one-time cost after conducting their second round of source water monitoring, and eight systems are currently required to complete this second round. Cost estimates are based on U.S. EPA's LT2 Final Rule and are annualized over 25 years at a 7% discount rate. These costs include one-time expenses that occur early in implementation and annual, ongoing costs that systems and the State Agency will incur once required treatment and/or monitoring changes are in place.

Systems will also be expected to accrue a total on-going annual cost of $40,291.18* with inflation regardless of system size. These costs cover the additional water system functions, such as operation and maintenance, reporting costs, and wages for technical and managerial support that are likely to occur in result of the LT2 rule. These estimates are per year costs and are estimated for a 25-year time span at a 7% discounted rate (prior to having to make any capital improvements).

*U.S. Department of Labor, Bureau of Labor Statistics Inflation Calendar used to account for inflation from 2019-2026.

There will be no increase in the cost to comply with these rules due to the amendments made or lack thereof.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The Agency considers the overall cost for complying with these regulations to be minor in comparison with ensuring that underground sources of drinking water are protected for public consumption.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No exemptions or alternative means of compliance for small businesses have been written into the rules being filed in this package as Ohio must adopt rules that are no less stringent than the federal counterpart.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Ohio EPA does not assign fines and penalties for first-time offenders and prefers to obtain compliance through outreach first and if needed, written notice of violations prior to any type of formal enforcement.

20. What resources are available to assist small businesses with compliance of the regulation?

The following resources are available:

- Ohio EPA's staff for compliance and pollution prevention assistance provide information and resources to help small businesses comply with environmental regulations in accordance with Ohio Revised Code section 3745.017. These staff help customers subject to any agency regulations identify and implement pollution prevention measures that can save money, increase business performance and benefit the environment. Services include a toll-free hotline, on-site compliance and pollution prevention assessments, workshops/training, plain-English publications library and assistance in completing permit application forms.
- Ohio EPA maintains the Compliance Assistance Hotline 800-329-7518, weekdays from 8:00 a.m. to 5:00 pm and a permit assistance webpage https://epa.ohio.gov/stay-compliant/get-help/permit-assistance that contains links to several items to help businesses navigate the permit process, including the Permit Wizard, Answer Place, Ohio EPA's Guide to Environmental Permitting and eBusiness Center.