

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Public Utilities Commission of Ohio (PUCO)
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Regulation/Package Title: Standards for Waterworks Companies and Sewage Disposal Systems Companies.

Rule Number(s): Chapter 4901:1-15

Date: May 24, 2017 (Revised)

Rule Type:

| | | |
|---|---|---|
| <input checked="" type="checkbox"/> New | <input checked="" type="checkbox"/> 5-Year Review | <input checked="" type="checkbox"/> No Change |
| <input checked="" type="checkbox"/> Amended | <input checked="" type="checkbox"/> Rescinded | |

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language. Please include the key provisions of the regulation as well as any proposed amendments.

The proposed revisions to the rules in Ohio Adm.Code Chapter 4901:1-15 are in accordance with the State of Ohio's five-year rule review procedures. R.C. 111.15 requires all state agencies to conduct, every five years, a review of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules. The rules in Ohio Adm.Code Chapter 4901:1-15 govern the furnishing of water, sewage disposal service, and facilities to the public by waterworks companies and/or sewage disposal system companies subject to the jurisdiction of the Public Utilities Commission of Ohio.

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Of the 35 rules contained in Ohio Adm.Code Chapter 4901:1-15, 13 are proposed to be amended: 4901:1-15-01, 4901:1-15-02, 4901:1-15-05, 4901:1-15-08, 4901:1-15-10, 4901:1-15-13, 4901:1-15-14, 4901:1-15-16, 4901:1-15-23, 4901:1-15-27, 4901:1-15-28, 4901:1-15-33, and 4901:1-15-34. Rule 4901:1-15-01 will redefine “dead-end main” to mean pipe that is greater than two inches in diameter. Rule 4901:1-15-05 will allow electronic filing of applications for certificates of public convenience and necessity. The rule also eases the signing and preparation requirements for exhibit 12 of an application. Rule 4901:1-15-10(C) is amended to change notice of planned outages and flushings from three days to two days if delivered by electronic or telephonic means. Rule 4901:1-15-14(E), which governs the investigation and record keeping of complaints, is amended to base investigation and record keeping on actual consumer complaints instead of customer dissatisfaction expressed in consumer contacts. Rule 4901:1-15-16 adds a provision for electronic notification of rights and obligations for customers and updates a website. Rule 4901:1-15-20 is rescinded and reissued as a new rule to allow isolated disconnection by means other than curb stops. It is also revised to exclude certain activities from unaccounted-for-water. Rule 4901:1-15-27 contains amendments pertaining to disconnection and medical certification. Rule 4901:1-15-28, as amended, recognizes that additional time for reconnection is needed where excavation or installment of a new service line is required. Rule 4901:1-15-32 is rescinded and reissued as a new rule to eliminate inconsistency in language and to include accounting standards for sewage disposal system companies. The amendment to Rule 4901:1-15-33 corrects a paragraph reference. Rules 4901:1-15-02, 4901:1-15-08, and 4901:1-15-23 have been amended to update a website or to make minor grammatical and stylistic changes. In addition, 4901:1-15-13 and 4901:1-15-34 were amended to make minor typographical corrections.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

| Rule | Statutory Authority – Ohio Revised Code |
|-------------------|--|
| Chapter 4901:1-15 | 4905.04 |

3. 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.

No rule in this chapter implements a federal requirement or is being adopted or amended to enable Ohio to obtain or maintain approval to administer or enforce a federal law.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

- 5. 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)?**

These rules are necessary to govern the furnishing of water and the disposal of sewage. The rules set forth the rights and obligations of both companies and customers.

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

The Commission will measure the success of these regulations by the increase or decrease in the number of complaints and enforcement actions against waterworks and sewage disposal companies.

Development of the Regulation

- 7. 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.***

On July 14, 2016, in Case No. 16-1568-WS-ORD, the Commission issued an Entry by U.S. mail and e-mail to schedule a workshop on August 16, 2016, to solicit comments from interested stakeholders prior to draft rules being issued for comment. The Commission served the Entry upon the Ohio Consumers' Counsel, all certificated water and sewage disposal companies, and the 405 subscribers of the Water Industry Service List.

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

One stakeholder—Aqua Ohio—appeared at the workshop, proposed changes to some of the rules, and later provided a written summary of its workshop proposals. Aqua Ohio proposed a revision of the definition for dead-end mains and complaints. Other areas of proposals pertain to additional notice methods for outages or flushings; frequency of meter testing; curb stops and other means of isolating service; disconnection issues in landlord-tenant, master-meter situations; medical certifications; sewer service reconnections; and mainline extensions. Several of Aqua Ohio's workshop comments are reflected in the revised proposed draft regulations.

- 9. What scientific data were used to develop the rule or the measurable outcomes of the rule? How do these data support the regulation being proposed?**

Not applicable.

- 10. 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?**

No alternative regulations were recommended as the Revised Code instructs the Commission to adopt regulations regarding water and sewage disposal companies. The Commission considered alternative proposals put forth in comments filed by stakeholders.

- 11. Did the Agency specifically consider a performance-based regulation? Please explain. Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.**

The rules are performance-based only in the sense that certain information must be reported to the Commission. Primarily, the rules in Ohio Adm.Code Chapter 4901:1-15 are regulatory in nature as required by the Revised Code.

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

The Commission has reviewed other Ohio regulations and found no duplicate. Furthermore, no duplicate was identified by stakeholders at the workshop. The Ohio Environmental Protection Agency was served a copy of the proposal when it was issued for formal comment.

- 13. 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.**

The Commission conducted a workshop on August 16, 2016, at the offices of the Commission to receive feedback from interested stakeholders and the general public. Next, the Commission issued an entry that set forth Staff's proposed rules. Stakeholders were given the opportunity to file written comments. Finally, following the comment period specified in the entry, the Commission will issue a finding and order adopting the proposed rules. All potential stakeholders were notified that this chapter is under review by Staff, and they were provided an opportunity for feedback concerning the rules in this chapter. Thus, stakeholders had the opportunity to express whether the proposed rules will be applied consistently and predictably.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. *Specifically, please do the following:*

a. Identify the scope of the impacted business community;

The scope of the business community impacted by the proposed revisions to Ohio Adm.Code 4901:1-15 includes all waterworks and sewage disposal companies subject to the Commission's jurisdiction.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

The rules, as they exist and as they will be amended, will require companies to file applications, exhibits, reports, maintain records, conduct maintenance procedures and investigations, and provide related documentation.

c. Quantify the expected adverse impact from the regulation. *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 is insufficient information to quantify the adverse impact of regulation. However, certain amendments, such as the redefinition of "dead-end main," provision for electronic filing and notices, and record requirements concerning customer complaints, will reduce the cost and time required for regulatory compliance.

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

The overall effect of the amended rules is a reduction in the regulatory adverse impact. The Commission believes that the amendments, as noted above, are sufficient to maintain properly water and sewer service without sacrificing safeguards for consumers.

Regulatory Flexibility

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

No. However, staff will work with regulated entities to assist them with the applicable requirements and provide guidance on how to achieve compliance.

17. 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?

Not applicable. The rules in Ohio Adm.Code Chapter 4901:1-15 do not impose specific fines or penalties for failure to comply. Fines and penalties for violation of this chapter may only be ordered by the Commission after notice and hearing.

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

The Commission's staff works with regulated entities to answer questions and to provide direction regarding the process by which they can contest violations. Small businesses had an opportunity to contact the Commission and to submit written comments on the proposed revisions during the public comment period.