

Chapter 4901:1-15, Ohio Adm.Code
Waterworks Companies and Sewage
Disposal System Companies
Case No. 22-771-WS-ORD
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Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

Agency, Board, or Commission Name: Public Utilities Commission of Ohio

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

Chapter 4901:1-15 Waterworks and Sewage Disposal System Companies

Rule Number(s): 4901:1-15-01; 4901:1-15-02; 4901:1-15-03; 4901:1-15-04;
4901:1-15-05; 4901:1-15-06; 4901:1-15-07; 4901:1-15-08; 4901:1-15-09; 4901:1-15-10;
4901:1-15-11; 4901:1-15-12; 4901:1-15-13; 4901:1-15-14; 4901:1-15-15; 4901:1-15-16;
4901:1-15-17; 4901:1-15-18; 4901:1-15-19; 4901:1-15-20; 4901:1-15-21; 4901:1-15-22;
4901:1-15-23; 4901:1-15-24; 4901:1-15-25; 4901:1-15-26; 4901:1-15-27; 4901:1-15-28;
4901:1-15-29; 4901:1-15-30; 4901:1-15-31; 4901:1-15-32; 4901:1-15-33; 4901:1-15-34;
4901:1-15-35

Date of Submission for CSI Review: October 19, 2022

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Public Comment Period End Date: November 23, 2022

Rule Type/Number of Rules:

New/ rules

No Change/ 15 rules (FYR? x)

Amended/ 19 rules (FYR? x)

Rescinded/ 1 rules (FYR? x)

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.

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.

The proposed revisions to the rules in Ohio Adm.Code Chapter 4901:1-15 are in accordance with Ohio Revised Code (R.C.) 111.15 and 121.951(A)(1). 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. R.C.

121.951(A)(1) requires state agencies to reduce their total number of regulatory restrictions, including redundancies and typographical errors when applicable.

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.

| Ohio Adm.Code | Authorized by/Amplifies (R.C.) |
|----------------------|---|
| 4901:1-15-01 | 4905.04, 4905.06 |
| 4901:1-15-02 | 4905.04, 4905.06 |
| 4901:1-15-03 | 4905.04, 4905.06; 4905.54 |
| 4901:1-15-04 | 4905.04, 4905.48, 4933.25, 4905.21, 4905.20 |
| 4901:1-15-05 | 4905.04, 4905.06, 4933.25 |
| 4901:1-15-06 | 4905.04, 4905.06 |
| 4901:1-15-07 | 4905.04, 4905.06, 4933.25 |
| 4901:1-15-08 | 4905.04, 4905.21 |
| 4901:1-15-09 | 4905.04, 4905.06, 4905.48 |
| 4901:1-15-10 | 4905.04, 4905.06 |
| 4901:1-15-11 | 4905.04, 4905.06 |
| 4901:1-15-12 | 4905.04, 4905.06 |
| 4901:1-15-13 | 4905.04, 4905.06 |
| 4901:1-15-14 | 4905.05, 4905.04, 4905.06 |
| 4901:1-15-15 | 4905.04, 4905.06 |

| | |
|--------------|-------------------------------------|
| 4901:1-15-16 | 4905.04, 4905.06, 4911.021 |
| 4901:1-15-17 | 4905.04, 4905.06 |
| 4901:1-15-18 | 4905.04, 4905.06 |
| 4901:1-15-19 | 4905.04, 4905.06 |
| 4901:1-15-20 | 4905.04, 4905.06 |
| 4901:1-15-21 | 4905.04, 4905.06 |
| 4901:1-15-22 | 4905.04, 4905.06 |
| 4901:1-15-23 | 4905.04, 4905.06, 4911.021 |
| 4901:1-15-24 | 4905.04, 4905.06 |
| 4901:1-15-25 | 4905.04, 4905.06 |
| 4901:1-15-26 | 4905.04, 4905.06 |
| 4901:1-15-27 | 4905.04, 4905.06 |
| 4901:1-15-28 | 4905.04, 4905.06 |
| 4901:1-15-29 | 4905.04, 4905.06 |
| 4901:1-15-30 | 4905.04, 4905.06 |
| 4901:1-15-31 | 4905.04, 4905.06 |
| 4901:1-15-32 | 4905.04, 4905.13 |
| 4901:1-15-33 | 4905.04, 4905.06 |
| 4901:1-15-34 | 4905.04, 4905.06 |
| 4901:1-15-35 | 4905.04, 4909.172, 4905.06, 4905.17 |

- 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.

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.

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

Not applicable.

- 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)?**

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.

- 7. 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.

- 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.

Not applicable.

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.

On August 25, 2022, in Case No. 22-771-WS-ORD, the Commission issued an Entry indicating that workshop would be conducted on October 11, 2022, to listen to stakeholders' concerns regarding rules in this chapter. The Entry was served upon all regulated waterworks and sewage disposal system companies in the State of Ohio, the Office of the Ohio Consumers' Counsel, and the Water industry list-serve.

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

No comments were provided by stakeholders at the workshop.

- 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?**

Not applicable.

- 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?**

No alternative regulations were recommended, as the Revised Code instructs the Commission to adopt regulations regarding water and sewage disposal companies.

Nevertheless, the Commission will consider any alternative proposals put forth in comments or reply comments filed by stakeholders and the general public.

- 13. 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.

- 14. 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.

- 15. 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 October 11, 2022, to consider any rule changes proposed by stakeholders. Next, the Commission issued an Entry containing Staff's proposed changes to the rules, to which stakeholders will have another opportunity to comment. Finally, following the comment period specified in the Entry, the Commission will issue a Finding and Order adopting the rules. All potential stakeholders will be notified that this chapter is under review by Staff, and they will be provided an opportunity for feedback concerning the proposed changes to the rules in the chapter. Thus, stakeholders will have an opportunity to provide feedback to Staff concerning the efficiency and effectiveness of the rules in this chapter.

Adverse Impact to Business

- 16. 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; and**

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 all adverse impact (e.g., fees, fines, employer time for compliance,); and**

The rules impact the identified business community to the extent of regulatory compliance with this chapter, including but not limited to filing procedures and notifying the Commission of critical events related to waterworks and sewage disposal

infrastructure. The Commission seeks to balance the interests of utilities and consumers in the furnishing of water and sewage disposal service.

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.

The Commission expects the impacts to be limited to cost of compliance, which includes filing appropriate documentation and notifying Commission Staff of critical waterworks and sewage disposal facility events, such as decommissioning infrastructure.

Additionally, the cost of compliance for regulated entities is ultimately recovered in rates as a business expense for the company.

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

The Commission has identified minimal adverse impacts on business, as a result of the proposed revisions. In fact, the business impacts resulting from the proposed revisions are expected to be positive impacts for the business community because the rule changes remove regulatory restrictions and do not add any new restrictions.

Regulatory Flexibility

18. 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.

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?

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. Additionally, the Commission may waive requirements in this chapter upon a showing of good cause.

20. 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 may contact the Commission at any time and may submit written comments on the proposed

revisions during the public comment period once the proposed revisions are filed in the case docket.

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